iii. For installations consuming above 50,000 units per annum but below 1,00,000 units per annum. First 50,000 units $1\frac{1}{2}$ annas per unit. For consumption above 50,000 units 1·35 annas per unit. For consumptions above 1,00,000 units, rates will be fixed by special agreement.

5. Meter hire —

(*a*) When meters are installed as sub-meters a minimum charge of Re. 1-8-0 is payable for each meter so installed.

(*b*) When prepayment meters are installed a meter hire of 0-6-0 per meter per mensem is payable.

LEGISLATIVE BUSINESS.—(*contd.*)

THE TRAVANCORE AGRICULTURISTS' RELIEF BILL.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I seek permission to submit a point for ruling by the Chair. Yesterday, I was not allowed to speak in opposition to the Clauses in the Bill when they were put one after another, although I was allowed to do so till yesterday. If I am not allowed that opportunity now, I do not think, Sir, I can do it at the third reading of the Bill. I therefore request the Chair to give direction whether I can speak in opposition to the various Clauses when they are put to vote.

PRESIDENT: You want the Chair to give a direction to itself?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I will have the right to speak in opposition only if the Chair says that I can do so.

PRESIDENT: No general direction like that can be given. The necessity for allowing a member an opportunity to speak will be judged according to the nature of the amendment, if any, that he proposes. If the circumstances are such that the member should in fairness be allowed the chance of expressing his views, I doubt not that he will be given such opportunity.

Clause 24

PRESIDENT: The question is that Clause 24 do form part of the Bill.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I oppose, Sir. I beg to submit that the decision of a Board as to whether a person is or is not an agriculturist, if held to be final, would work very great hardship considering the nature of the definition of the term 'agriculturist' in the Bill.

PRESIDENT: Order, order. It must be clearly understood that, if any member claims the right to object to the inclusion or retention of a particular Clause in a Bill, he should have tabled an amendment for that purpose. The honourable member has not done so, although he had an opportunity to do it. Therefore, he has accepted that clause. Now he wants to be allowed the right to get up in his place and say that the clause must be deleted. That cannot be allowed.

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The question that the Clause 24 do form part of the Bill was put to vote and carried.

The Clause was added to the Bill.

Clause 25.

The question that Clause 25 do form part of the Bill was put to vote and carried.

The Clause was added to the Bill.

Clause 26

The question that Clause 26 do form part of the Bill was put to vote and carried.

The Clause was added to the Bill.

Clause 27.

MR. K. PADMANABHAN (*Chirayinkil* I): Sir, I beg to move the following amendment :

"*In Clause 27, delete the words 'by an agent authorised in writing or in lines 1 and 2.*"

According to the provision as it is, a party may himself appear before the Board or may be represented by a legal practitioner or by an agent authorised in writing. My point is that the representation of parties by anybody who has an authorisation is likely to lead to considerable hardship to the parties. We must admit, Sir, that there are no specific provisions in this Bill with regard to the procedure to be followed by these Boards; nor is it definitely stated that the enactments governing the procedure in courts of law would apply to the proceedings before these Boards also. We are not quite sure whether the Board will decide questions after taking evidence or will not even dispense with evidence altogether. The Boards can do whatever they like in these matters, since the provisions in this Bill are not quite definite. In these circumstances, I submit, it will lead to serious difficulties if anybody who has an authorisation from a party is allowed to represent him before the Board.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Since it is the party himself that is to authorise the agent, where is the harm in the provision?

MR. K. PADMANABHAN (*Chirayinkil I*): In the absence of the party himself, only legal practitioners should be allowed to represent parties before these Boards.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I second the amendment. No high standard of professional conduct could be expected of a person who represents a party before these Boards, unless such person is one conversant with the practices obtaining in law courts. I therefore support the amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I oppose the amendment. Mr. Padmanabhan wants only legal practitioners to represent parties before these Boards, in the absence of the parties themselves. In other places, where similar

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enactments are in force, in the Punjab, for instance, it is the legal practitioner that has been prohibited. These legal practitioners are prohibited for set reasons, I think. Sir, the proceeding of these Boards will and should rather be informal, since an amicable settlement is the objective. We do not want the proceedings before the Board to be delayed or protracted by the introduction of technicalities. That seems to be the reason why legal practitioners are excluded in other places. We have not gone to that extent and we permit legal practitioners at the option of the party. What is the harm in a party being represented by any person in whom he has confidence, especially since there is going to be only some thing like an arbitration? For instance, why not a woman debtor be represented by, say, her brother or her husband? Further, to restrict the appearance to legal practitioners and to prohibit agents will make it more expensive.

MR. K. PADMANABHAN (*Chirayinkil I*): Will not the ordinary authorised agent demand fees?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That will surely be less costly than legal practitioners who are limited in number.

MR. S. CHATTANATHA KARAYALAR (*Shencottah*): May I know, Sir, whether it is the position of the Law Member that a consideration of the technical matters should not be allowed before the Conciliation Board?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is a matter of opinion, Sir. Technical matters need not be considered by the Board in the manner in which they are in courts of law. Further, the legal practitioner is not prohibited.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): May I draw the attention of the Law Member to Clause 14 where it is stated that questions like mistakes of fact, collusion and all those matters that vitiate a contract ordinarily should also be considered?

MR. KAYALAM PARAMESWARAN PILLAI (*Additional Head Sirkar Vakil*): These are matters that are easily understood by anybody; and further the party can engage a legal practitioner if he wants to do so.

SADASYA TILAKAN T. K. VELU PILLAI (*Trivandrum Urban*): I fully sympathise with the argument that the processes of law may create some delay. The underlying principle of the Vakils' Regulation is that only competent persons should appear and plead for parties in courts of law. The question suggested by Mr. Sambasiva Aiyar is a very important one. For when the Regulation contemplates technicalities, when contracts have to be interpreted, when rates of interest have to be computed according to contract, when questions of limitation have to be disposed of, and also, Sir, when this House has committed itself to the position that ordinarily men of judicial experience should be appointed as conciliation officers, I think it is necessary.—

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Where has the House committed itself to the position that a judicial officer of experience *should b* appointed?

SADASYA TILAKAN T. K. VELU PILLAI (*Trivandrum-Urban*): The implication of these clauses—Clause 14 and others is that a person who is appointed as a conciliation officer must be a man of judicial experience. This House can never stultify itself by saying that even men without judicial experience could be appointed. A doctor or an engineer may be a very intelligent man but this House can never contemplate for a moment that such a man should be appointed to the Board. Sir, the question bristles with difficulties. What is the meaning of compelling an officer to decide these matters without sufficient legal advice? My friend the Law Member certainly knows, perhaps more than many of us, that technicalities of law if not properly understood will prevent a dispute being settled in time. Is it not the business of this measure to see that matters are adjudicated in a reasonable manner, and not by rules of thumb? Why should not a lawyer go there?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I ask the question whether a lawyer is prohibited at all?

SADASYA TILAKAN T. K. VELU PILLAI (*Trivandrum—Urban*): I quite see that. Is any debtor prohibited from writing off his debts? We pass a law so that the bulk of the people might be benefited.

MR. KAYALAM PARAMESWARAN PILLAI (*Additional Head Sirkar Vakil*): I am afraid, Sir, that my question was not understood. My question was whether it is not open to any party, who so wants, to engage a qualified lawyer to appear before the Conciliation Board?

SADASYA TILAKAN T. K. VELU PILLAI (*Trivandrum—Urban*): It is open to him to engage any one including a Vakil. If that is the view, there need not be the Chitties Regulation nor for the matter of that a number of other Regulations. They might all be removed from the Statute Book. Sir, my point is that there will be a large number of cases and, if proper persons are not engaged by the parties, great mistakes will be made.

MR. A. THANU PILLAI (*Trivandrum-Rural*): What is the harm in a party being represented by a person other than a lawyer?

SADASYA TILAKAN T. K. VELU PILLAI (*Trivandrum—Urban*): The lawyer will be better able to represent him.

MR. M. SIVATANU PILLAI (*Torala*): Is not the party himself the best judge as to who will represent his cause better?

SADASYA TILAKAN T. K. VELU PILLAI (*Trivandrum—Urban*): It is because of that, Sir, that the need for this Bill has arisen.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Is there not a similar provision in the Civil Procedure Code itself authorising an agent, other than a legal practitioner, to appear for a party?

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PRESIDENT: Let me intervene. I am afraid there is some misapprehension as to what the real purport of this particular Clause is. It is wrong to say that legal practitioners are ruled out; for, the very clause retains the words 'legal practitioners', but only adds one more epithet, authorising an agent who could represent the interest of the party by appearing before the Conciliation Board. As was very well pointed out, if the party thinks that he should engage a legal practitioner, he does it. If the party thinks, on the other hand, that the legal practitioner would be very costly and that he could get along with his work by engaging some other agent, he does that.

Then again, let it be remembered distinctly that we are dealing with Conciliation Boards. In a Conciliation Board, we expect the parties to come to it only if they have the tendency to conciliate and when they have the tendency to conciliate, it goes without saying that they will not come armed with all weapons of offence and defence for the purpose of killing each other. They will come there to bring about a happy settlement of the debt, as far as possible. These are the facts that should be before the House.

SADASYA TILAKAN T. K. VELU PILLAI (*Trivandrum—Urban*): With your permission, Sir. I wish to say a word by way of personal explanation. It was stated on the other side that legal practitioners, if engaged, will create some difficulty. Therefore it was that I made my speech.

The amendment was put to the vote of the House and declared lost.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, I move the following amendment:—

> "*In Clause 27, substitute the words duly authorised agent or legal practioner's for the words 'an agent.....practitioner' in lines 1 and 2*".

Sir, my object in making this motion is to make the intention of the Clause clearer, because it might appear from the Clause as it stands that a legal practitioner need not have any authority in writing for representing a party. That is one difficulty. With regard to the agent, it is stated that he should be authorised in writing; but I want that he should be *duly* authorised in writing. Otherwise a simple chit, or a writing on a small piece of paper may be taken to the Board and an agent can say that he has authority from the party to arm him with power to represent the party. He must have a power of attorney or *mukthiyar* to entitle him to represent the party's interest and the legal practitioner must have the authority by a *vakalath* to enable him to appear.

PRESIDENT: There is not much difference. In the Clause itself, there are the words "an agent authorised in writing". Your words really are "duly authorised agent". What is the difference?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): "Duly authorised" means authorised in a manner recognised by law. But, here, it may include a man authorised by a chit.

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PRESIDENT: It is merely a transposition of words. The words 'legal practitioner' are also there.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): It is not stated in the clause that the agent must be *duly* authorised; that is my position.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I oppose the amendment. Certainly, if Mr. Asan's wording had already been in this Bill, I would have staunchly stood by it. But as it is, there does not seem to be much difference between the amendment and the provision in the Bill. I therefore stand by the Bill.

The amendment was put to the vote of the House and declared lost.

The question that Clause 27 do form part of the Bill was put and carried.

Clause 27 was added to the Bill.

Clause 28.

PRESIDENT: Before I take up the amendment appearing on the agenda, I have to bring to the notice of the House the fact that Mr. Sambasiva Aiyar has given notice of an amendment in respect of Clause 28, namely, to delete Clause 28. Well, this would be a codicil, so to say, to a will. I have already allowed a large number of amendments which had been tabled out of time, because of the importance of the measure. But now I find that still they come. Well, I do not wish to exercise my discretion arbitrarily, but I would rather allow the House to have its say, when each additional amendment is taken up, whether it would allow that amendment to be discussed at all. In regard to this amendment, I would therefore take the sense of the House.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I object to this amendment, Sir.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): May I submit, Sir, the reason why I gave notice of this amendment and request your permission to explain why it was given at a late hour. As per the Bill revised by the Select Committee, provision was made in Clause 3, sub-clause (1) (*a*) that—

> "Our Government may, for the purpose of amicable settlement between debtors and their creditors and among the creditors *inter se* if there be more than one creditor of the same debtor (hereinafter called conciliation) establish debt conciliation boards."

There was no obligation on the part of Government to establish debt conciliation boards in every part of Travancore. The only idea was that conciliation boards would be established by Government as and when Government thought it fit in areas where it was thought urgently necessary. Now an amendment of Mr. T. P. Velayudhan

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[Mr. R. Sambasiva Iyer.]

Pillai has been carried. That amendment is amendment No. 60; and according to that amendment a Proviso has been added which states—

"Provided that the jurisdiction of the boards established under Section 3 Clause (1) (*a*) shall be so defined and adjusted as to include the whole State."

Therefore the effect of the amendment No. 60 is that the jurisdiction of the boards should be such that it will comprise all Travancore. Section 28 read thus —

"Except for special reasons to be recorded in writing, no court of law shall entertain, or allow to be prosecuted, any suit, application for the execution of a decree or other proceedings for the recovery of any debt for the settlement of which an application is pending before a Board."

Therefore after a particular territory has got a conciliation board, a debtor has only to go there and to put in a petition. As soon as an application for conciliation is put in under Clause 4, the effect, according to Clause 28, is that automatically all proceedings before the civil courts stop, unless of course there are special reasons to be recorded in writing.

PRESIDENT: I cannot allow the honourable member to make long speeches unless they contain very valuable points.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): The necessity for such an amendment to delete Clause 28 arose only after amendment No. 60 was carried. Therefore I request that I may be permitted to move it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No doubt, it is a fact that certain amendments have been carried by the House. But I do not think that that is a sufficient justification to allow this amendment which is to delete Clause 28 altogether.

PRESIDENT: Objection having been taken, is it the wish of the House that this amendment should be taken up for discussion?

The question was negatived.

PRESIDENT: Mr. Sambasiva Aiyar has got another amendment for Clause 28. That again is one of the late comers.

MR KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) Time is a serious consideration in the debates on the Bill. But I see that some *principle* is involved in this amendment; and if Mr. Sambasiva Aiyar will put it before the House briefly, I have no objection to the amendment being taken up.

PRESIDENT: When these amendments are shoved on the devoted head of the President almost at the eleventh hour, it is not possible to have them circulated among the members. The President has got to do this himself. The amendment is as follows:

For Clause 28, substitute the following:—

"28. For a period of six months from the date of the presentation of an application under Section 4, no Court shall, except for special reasons to be recorded in writing, entertain any suit, application for the execution of a decree or other proceedings for the recovery of any debt covered by the application.

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Provided that nothing in this Section shall apply to any debt incurred after the commencement of this Regulation or any debt incurred for purposes of trade or to any debt arising out of any transaction of the nature of a lease including a Kanapattom transaction, falling within the purview of the Jenmi and Kudiyan Regulation of 1071 or to any decree passed for the recovery of any such debt".

That is the amendment. I am just appealing to the House to come to my rescue and tell me whether the House is agreeable to this amendment being taken up now.

(*Cries of "No, no"*).

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) I request you to allow the amendment being put to vote of the House.

PRESIDENT: I do not want to overrule the sense of the House. I am entirely in the hands of the House.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I ask for a poll.

PRESIDENT: Will you draw my attention to any rule which permits you to demand a poll?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I wish to make a submission in this matter. After a change was introduced, namely, that Conciliation Boards shall be established throughout the State, the significance of this Clause has increased. The object of this amendment is to prevent a stay of all manner of executions, for the realisation of debt, which would otherwise be the result. My submission is that it is always better to discuss the amendment and to vote on it.

PRESIDENT: That is why I asked the sense of the House. The House has negatived it. I am entirely in their hands.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I ask for a poll.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is for you, Sir, to decide. It does not depend on mere votes.

PRESIDENT: The tendency to dump down these amendments on me is very great. If it is an important amendment, it should have been in the hands of the Chair much earlier than this.

SADASYA TILAKAN T. K. VELU PILLAI (*Trivandrum-Urlan*): May I make a submisaion to the Chair? As observed by the Law Member, it is for the Chair to decide the question. If the House decides on a matter like this, later on that will become a precedent and the House will have to be consulted in every case. (*Cries of "No, no"*.)

PRESIDENT: No. After all, the Chair is the mouth-piece of the House. In view of the divided opinion in the House, about the admissibility or otherwise of this amendment at this late hour, I am prepared to stretch the point in favour of Mr. Sambasiva Aiyar on the understanding that he does not make a long speech.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I undertake not to make a long speech.

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PRESIDENT : I will keep the watch in front of me.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : My amendment is this :

For Clause 28, substitute the following :—

"*28. For a period of six months from the date of the presentation of an application under Section 4 no Court shall, except for special reasons to be recorded in writing, entertain any suit, application for the execution of a decree or other proceedings for the recovery of any debt covered by the application*".

Provided that nothing in this Section shall apply to any debt incurred after the commencement of this Regulation or to any debt incurred for purposes of trade or to any debt arising out of any transaction of the nature of a lease including a Kanapattom transaction, falling within the purview of the Jenmi and Kudiyan Regulation of 1071 or to any decree passed for the recovery of any such debt".

If the application is to be entertained after the period of six months, there must be special reasons and those reasons should be recorded by the Board. The idea is that proceedings before the Conciliation Boards should not be protracted so as to cause undue hardship to the creditor. There must be finality ; there must be quickness. The proceedings before the Board must end within six months, ordinarily.

MR. K. R. ELENKATH (*Kalkulam I*) : I rise to a point of order. In regard to this amendment, the President unequivocally asked the permission of the House. And the House was definitely of opinion that it should not be moved.

PRESIDENT : Opinion was divided.

MR. K. R. ELENKATH (*Kalkulam I*) : But the member demanded a poll. My opinion is that, if the member is to move the amendment now, after the House has disallowed it, it will be an insult to the House.

PRESIDENT : No ; the honourable member will read the Standing Orders once more.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : I have only to say just a word about the proviso. We have accepted the principle of this proviso while considering Clause 15 ; because an amendment was carried to the effect that the conciliation proposed shall not be such as to reduce any amounts lent after the commencement of this Regulation. Again, trade debts should not be affected by this clause.

MR. A. THANU PILLAI (*Trivandrum—Rural*) : Seeing that trade debts are allowed to be conciliated, what is the meaning of saying that no suit shall lie simultaneously with the conciliation ?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : My submission is that trade debts should not be brought within the purview of this clause.

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MR. A. S. DAMODARAN ASAN (*Mavelikara*): The House has decided that, for the purpose of Part II, trade debts should be included. My friend wants that trade debts should be excluded. It is contrary to the previous decision of the House.

PRESIDENT: If that is so, that militates against the previous decision of the House.

MR. R SAMBASIVA AIYAR (*Kunnatnad II*): My submission is that there was no such decision. No doubt, while considering Clause 2, some such suggestions were made. But no definite issue of this kind was decided upon. The attention of the House should have been focussed on that particular point; and then only it can be said that there was a decision on the point.

MR. K. P KRISHNA MENON (*Parur*): I second the amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) Sir, this clause consists of two portions, the principal clause and a proviso. In regard to the principal clause, I am inclined to accept its principle. The principle is that though, so long as a conciliating proceeding is pending before a Board there shall not be a suit before a Court for the identical debt yet if the conciliation proceeding is pending for an indefinite time, it should not be allowed and some limit should be put to the prohibition period. Mr. Sambasiva Aiyar suggests six months as the limited period. The House may consider whether six months will be sufficient or say 12 months will be needed. It is advisable to accept the principle of the amendment, to the extent, namely, that there should be some limit.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): If the Board delays, what will be the consequence?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The suit will be allowed to proceed.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Am I to take it that the proceedings before the Board will automatically cease?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Nothing is mentioned about that in the Clause. The Board may arrive at a conciliation. That conciliation will operate in spite of the suit.

In regard to the Proviso, a point of order has been raised. Apart from that, inasmuch as we allowed trade debts to be conciliated, there is no meaning in making further exceptions. I oppose this proviso.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I oppose the amendment in its entirety Though I am not in possession of the correct wording of the amendment, I have to oppose it with what I have gathered on hearing it read What is intended by this is, that, after the expiry of six months from the date of the application, the courts in the land are entitled to ignore the proceedings beore the board. If the amendment as it stands does not even prohibit prosecution of a suit or application during six months period—

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does it not? The wording of the amendment is this.

> "For a period of six months from the date of the presentation of an application under Section 4 no court shall except for special reasons to be recorded in writing entertain any suit, application for the execution of a decree or other proceedings for the recovery of any debt covered by the application"

So then, all proceedings *are* stayed for six months.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Seeing that the wording in the amendment is only "entertain any suit" and so long as the words "or allow to be prosecuted" occurring in the clause are omitted, there is material difference by this amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): 'Yes, Sir; I thank the member for pointing it out. The words "or allow to be prosecuted" should come in the principal clause.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Thus, the amendment does not contain the words "or allow to be prosecuted", and it is defective on that very ground.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): The words "or allow to be prosecuted" are in the amendment.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) This seems to be a complicated amendment; and unless we have copies of it, we cannot make up our minds.

PRESIDENT: The Proviso being in conflict with the provisions already forming part of the bill, it automatically goes. In regard to the other part, there is difference of opinion regarding the necessity or otherwise of the same. That is the difficulty.

MR. A. S DAMODARAN ASAN (*Mavelikara*): I have not finished my speech, Sir.

If the Proviso is amended with the words "or allowed to be prosecuted", I will not oppose it. But I oppose the other part. When a party puts in an application for conciliation, to the board, it is not within his control to get a decision within six months (Mr. K. Kunjukrishna Pillai: *Hear, Hear*) Unless he is sure that he will get a decision within six months, which he cannot know beforehand, he could not be sure of the efficacy of the proceedings before the board. After six months, the court will proceed with the suit, or with the execution application of the party. Instead of moving this amendment, I would even accept an amendment saying that the application before the conciliation board shall be dismissed when six months elapse. That would be much better. At least, the proceedings will terminate.

Those, who are accustomed with the manner of proceedings in our courts, will not deny that it is not possible, either for the party or for the court or for the authorities concerned, to decide a case within a fixed time. It is not also practicable. I would suggest that the board may be asked to reject the application under Clause 20 rather than do all these. Clause 20 gives power to reject the application. With these words, I oppose the amendment to the principal clause.

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MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : A word of explanation Sir. Inasmuch as copies of amendments have not been circulated, I request the Chair to postpone decision on this amendment after copies of it have been circulated among the members. Anyhow, I request that the amendment may be considered by the House and voted upon since this has been allowed by the Chair and in a way accepted by the Law Member. I request you, Sir, as the guardian of the privileges of this House, to give the House an opportunity to peruse the amendment and then take the vote of the House, I did not know that the amendment will now be objected to for want of time. I have given notice of a large number of such amendments ; and all of them have been admitted.

MR. A. THANU PILLAI (*Trivandrum—Rural*) ; I would not have risen to speak on this amendment but for the fact that the Law Member has in a way conceded that there is some substance in this amendment. Now there is a board for conciliation of debts. Is it the party's fault that the proceedings of the board happen to be in some cases protracted? I wish to draw the attention of the House to Clause 20 that we have passed. It says as follows.

> "An application under Section 4 may be dismissed by the board at any stage of the proceedings—
>
> (*a*) if, in the opinion of the board, the applicant fails to pursue his applicaion with due deligence."

The board is invested with that power, in case the party is wanting in vigilance. Then why add further provisions, I ask. Why should the party be penalised further ?.

I have a copy of the amendment and in that I do not find the words "or allow to be prosecuted". My friend Mr. Asan was perfectly right when he said so. This is a copy of the amendment which Mr. Sambasiva Aiyer himself had. (*Laughter.*)

Mr. Sambasiva Aiyer's argument is that, since Mr. Velayudhan Pillai's amendment, that, if boards are constituted at all, they should have jurisdiction throughout the whole State, is passed, his amendment also becomes necessary. I fail to see the reasonableness of that. When there is one party and he abides by the decision of the board, I cannot understand how the other parties should not do the same thing.

The only point now for decision is that the proceedings must not be protracted. I take it that Government will see that they appoint such officers as will not unduly protract proceedings. It is their duty not to appoint inefficient officers or corrupt officers in the sense that they will allow parties to have the proceedings protracted. If they take care to see competent men being put in charge of the duties and also properly control the work, there cannot be any force in the contentions put forward by Mr. Sambasiva Aiyar. Why should we make a farce of a thing the result of which we do not know? We cannot say what the result of the board is going to be. In these circumstances, we will only be trying to make a greater farce if the amendment of Mr. Sambasiva Aiyar is accepted.

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is it the suggestion of the member that the Government should control the work of the Board?

MR. A. THANU PILLAI (*Trivandrum-Rural*): By control I mean that the Government can see who the officers are and whether they work properly under this Regulation. Whether the officer attends to the work or not is a matter to be decided by Government. The Government can also see whether the officer concerned has sufficient capacity for the discharge of work.

So far as the work of courts is concerned, I am aware that the High Court alone can control their inner details of the work. They alone can exercise that sort of control and not Government. The Government cannot decide the work of judicial officers as such. Under these circumstances, I emphatically oppose the amendment.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, after having discussed about 25 Sections of the Bill, we must be in a position to picture to ourselves what exactly the position of credit as well as debt in this country is when the Government appoint conciliation boards and officers and enable the debtors to seek the aid of boards. From the debtor mentality, so far as we have been able to gauge correctly, I believe, it will be the privilege of every debtor to put in an application for conciliation. Amongst debtors, I do not say that there are not honest debtors who really want conciliation. But we must take into account a large body of unscrupulous debtors who, for the sake of gaining time or for the purpose of obstructing progress, will seek the aid of Conciliation Boards. When this Section comes into force, when the Conciliation Boards are established and the petitions presented before them, automatically all claims against that debtor, whether it may be trade claims or trade debts, whether they be rents due under Kanapattom or simple lease deeds or whether they are dues to co-operative societies, are stayed. The only exception is in favour of dues that are due to Government. If an opportunity is given and if these petitions are put in before Boards, what will be the sort of legal enforcement of these claims in courts? Consider whether there will be any work so far as execution side is concerned. Consider the question of recovery of money when entertainment of money suits in the civil courts is prohibited. My submission is that all work will come to a deadlock. All kinds of work in Civil Courts, so far as it relates to realisation of money, will come to a stand-still. How long can this state of affairs continue? There will be no harm if it is to be stayed for such time as credit will demand. If an unlimited time is given, the injunction restraining the entertainability of suits and applications for execution of decrees, will also have to continue. Mr. Thanu Pillai stated that the Board must be asked to work as speedily as it can, and for that purpose the Government should have a strict watch over it. My point is, so far as our experience goes, in spite of efficient men in the Judicial service, we still complain about delay in civil suits. Today I may appear on behalf of the defendant and ask for time; to-morrow I may

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appear for the plaintiff and oppose any prayer for time. If I condemn the defendant now, I will condemn the plaintiff to-morrow. It is the Court which decides it, under different sets of circumstances presented before it. That is inevitable. There is no mistake on the part of the Court at all. The presiding officer may be a person absolutely innocent of any sort of corruption, but still the plea for time is a potent factor. Everybody is tempted to grant that, Now we will take what happened in this House just a while ago. You, Sir, were pleased to hear what Mr. Sambasiva Aiyar said, though he was out of time in making the motion. At the eleventh hour this amendment was brought in. What did the Chair do? Or, rather what did the House do? They all approved it. In spite of the rigour of the proceedings of the Conciliation Officer, there is always the likelihood of his granting time. You cannot prevent that. Are we to put a check, as it were, on the exercise of such indiscriminate misuse of the advantages conferred upon the debtor by the Regulation?

MR A. THANU PILLAI (*Trivandrum-Rural*): Suppose it is the creditors that put the obstacles in the way?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): That is exactly what I mean. It should not be considered that we are all for debtors. We are now here to arbitrate between the creditor on the one side and the debtor on the other. Are not the creditors entitled to live in this land? Are they not entitled to reliefs under the provisions of this Bill? If you say that the debtor is likely to take undue advantage of the provisions of this Bill and that the creditor is likely to frustrate the very object of the Bill, I say, arbitrate between them. We will take a position which shall be a check on both parties.

MR. A. THANU PILLAI (*Trivandrum-Rural*): What about the third party, the Board?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Persons appearing for the parties may plead in both ways. If you oppose a certain thing, I shall argue for it. Is there any guarantee that my argument will not be heard? The Board should have power to grant time for sufficient reasons. Suppose a petition is put in and it is pending for 3 years. The debtor or creditor dies, his legal heirs will have to be brought in, fresh notices will have to be issued, and new evidence will have to be taken. By that time, another person may die. Now what is it that happens in the case of partition suits? The plaintiff puts in an application for partition. Notices are issued to the parties. By the time notices are returned, some parties may die. Others will have to be included. Such difficulties will crop up even before the Board. There are hundreds of officers employed as Munsiffs and Judges. Are they not to do any work? Is not Government bound to maintain them?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Cannot some of them be appointed as Conciliation Officers?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Then we will have to advocate that some of the courts should be abolished. Because

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[Mr. Puthupalli S. Krishna Pillai.]

a court has not many cases to deal with, should it be abolished ? It has to deal with litigation. Even though the number of cases coming before courts is small, we cannot say that the arbitration court should decide all our disputes. The existence and continuance of civil courts is absolutely necessary. Now look at the enormous expenditure that the Government will have to incur. Therefore, we must very seriously consider this question and come to a dispassionate decision. I would therefore humbly suggest that the Law Member may himself be asked to bring in a suitable amendment. Substantially this Section stands by itself. The consideration of this may be postponed for half an hour later. There is no harm in postponing it for half an hour and then discussing it. I think, when similar cases have arisen, such a procedure has been followed. I think there are precedents.

MR. A. THANU PILLAI (*Trivandrum-Rural*): It presupposes too much. It presumes that the House is going to accept the suggestion.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): No, I do not say that. I am only making a suggestion. Am I not entitled to make a suggestion ?

PRESIDENT: This amendment, as already pointed out, has got two parts, the first the substantive portion of it, and the second, a proviso. As has been already pointed out, the proviso is in conflict with the whole Bill. Therefore, it is ruled out of order.

Then, there remains the substantive part of it. I must honestly confess that its drafting is bad, and perhaps some attempt will have to be made for the purpose of bringing out what the idea of it is. I do not think the House should be detained for that. Therefore, I am prepared to put this part to the vote of the House.

The question is whether the first part of the amendment—

> "For a period of six months from the date of the presentation of an application under Section 4, no Court shall except for special reasons to be recorded in writing entertain any suit, application for the execution of a decree or other proceedings for the recovery of any debt covered by the application."

do form part of the bill.

The amendment was put to the vote of the House and lost.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I demand a poll.

A poll was taken and the House divided as follows :—

AYES—7.

1 Mr. S. Chattanatha Karayalar	4 Mr. K. C. Karunakaran
2 ,, M. K. Janardana Kamath	5 ,, K. P. Krishna Menon
3 ,, T. S. Jayantan Namboothiri	6 ,, R. Sambasiva Aiyar
	7 ,, M. Sivatanu Pillai

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NOES—42.

1	Mr.	N. Abdur Rehiman Sahib	21	Mr.	K. M. Kuriakose
2	,,	K. C. Abraham	22	,,	P. C. Kuriyan
3	,,	T. K. Alexander	23	,,	K. Madhavan
4	,,	V. T. Chacko	24	,,	M. K. Madhavan Pillai
5	,	A. S. Damodaran Asan	25	,,	K. Mahomed
6	,,	A. Easwara Pillai (*Kallulam II*)	26	,,	K. A. Narayana Pillai
7	,,	A. Easwara Pillai (*Kottarakara*	27	,,	Pacode A. Narayana Pillai
8	,,	Antony George	28	Sry.	T. Narayani Amma
9	Miss	Hepzibah Gnanasikamony	29	Mr.	S. Nilakanta Pillai
10	Mr.	S. J. Nair	30	,,	K. Padmanabhan
11	,,	John Joseph	31	,,	Edavanatt S. Padmanabha Menon
12	,,	J. M. Joseph	32	,,	Kainikkara M. Padmanabha Pillai
13	,	T. C. Joseph	33	Rao Sahib	S. Parameswara Aiyar
14	,,	T. T. Kesava Sastri	34	Mr.	V. Ramakrishna Panickar
15	,,	K. M. Krishnan	35	,,	R. Raman Pillai
16	,,	Pottayil S. Krishna Panickar	36	,,	R. Sivaranma Pillai
17	,.	Puthupally S. Krishna Pillai	37	,,	A. Thanu Pillai
18	,,	T. Krishna Pillai	38	,,	P. K. Thomas
19	,,	K. Kunjukrishna Pillai	39	,,	J. W. Tolson
20	,,	E. K. Kunjuraman	40	,,	N. E. Varughese
			41	,	V. K. Velappen Nair
			42	,,	T. P. Velay udhan Pillai

NEUTRALS—15.

1	Mr.	C. V. Chandresekharan	9	,,	G. Nilakantan
2	,,	K. R. Elenkath	10	,,	Changanacherry K. Paramesvaran Pillai
3	,,	K. George	11	,,	Kayalam Paramesvaran Pillai
4	,,	M. Govinda Pillai	12	Vaidya Sastra Kusala Mrs. Dr.	M. Poonen Lukose
5	,,	K. N. Kesava Pillai	13	Mr	S. Thiraviam Nadar
6	Rao Bahadur	Dr. N. Kunjan Pillai	14	,,	T. C. Thommen
7	Mr.	C. O. Madhavan	14	,	G. B. E. Truscott
8	,,	P. C. Narayana Bhattatiripad			

The question that Clause 28 do form part of the Bill was then put and carried.

The Clause was added to the Bill.

Clause 29.

PRESIDENT: In respect of Clause 29 again, there is an amendment by Mr. Sambasiva Aiyar to delete it. For reasons I have already mentioned in respect of Clause 28, this also is ruled out of order.

The question that Clause 29 do form part of the Bill was then put and carried.

The Clause was added to the Bill.

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Clause 30.

The Question that Clause 30 do form part of the Bill was then put and carried.

The Clause was added to the Bill.

Clause 31.

The question that Clause 31 do form part of the Bill was then put and carried.

The Clause was added to the Bill.

Clause 32.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I beg to move the following amendment:—

"*In Clause 32, delete sub-clause (1)*".

This Clause has been inserted in the Bill with a view to safeguard the proper working of the Conciliation Boards It was originally proposed to consist of one official member and two non-official members. Now, in view of the change effected in the constitution of the Board, *viz.*, that the Board is to consist of only one officer, the retention of the Clause has become absolutely unnecessary. If any official member violates any rule, he can be proceeded against under the departmental rules in force. So far as the proceedings before the Conciliation Boards are concerned, they are of a quasi—civil nature, in which the parties should not be punished for violation of rules of procedure. I believe this Clause would be a dead letter. Every Clause in a Statute should serve some useful purpose I am of the opinion that this Clause does not serve any purpose. So, I commend this amendment for the unanimous acceptance of the House.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I second it In addition to what Mr. T. P. Velayudhan Pillai said, I wish to advance one more argument.

One of the sub-rules says:

"Our Government may make rules

(*h*) prescribing the fees for the execution of decrees declared as such under the provisions of Section 16."

Suppose a particular party does not pay the fees while he puts in the application or he pays only a smaller amount than what is prescribed therein. That is a violation of the rule. But he should not be punished with fine.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Does not every rule, that Government frame, also prescribe a punishment for violation of it?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): For every violation, punishment may be prescribed. But, why should we give that power?

Mr. Velayudhan Pillai has already explained that there is no necessity for this sub-clause (4). Why should we have a clause which is likely to give rise to some hardship? On that ground, I support the amendment.

MR. KAYALAM PRAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I oppose the amendment. I can agree that, in as much as Conciliation Officers are Government officers, they will be subject to

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the disciplinary control of Government, and therefore, so far as they are concerned, this provision may not be necessary. But it will be seen from the Clause 32 (*b*) (2) that Government are given the power to make rules to regulate the procedure of Boards. It may perhaps be that, when a procedure for regulating is prescribed, a punishment for breach of the rule should also be prescribed. When Government make some such rule, this provision may perhaps be necessary.

Further, this provision was approved by the Select Committee consisting of 25 honourable members, a fact which I have been referring to so often. Sir, I oppose the amendment.

The amendment was put to vote and declared lost.

The question that Clause 32 do form part of the Bill was put for vote and carried.

Clause 32 was added to the Bill.

Clause 33.

PRESIDENT: In respect of Clause 33 also Mr. Sambasiva Aiya. has given notice of an amendment which is belated. His amendment is "Delete Clause 33". For reasons I have mentioned in respect of two other clauses, this amendment also will not be allowed to be moved.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): There is another amendment to Clause 33 given notice of by me and that is—

Add the following Proviso to Clause 33:—

"Provided that nothing in this Section shall apply

(*a*) to any decree passed for the recovery of any debt incurred after the commencement of this Regulation or.

(*b*) to any decree which is not a decree for the recovery of any debt."

PRESIDENT: That comes only later. It is only in respect of the deletion of the whole Clause that I have given the ruling.

The next amendment is No. 216 by Mr S Chattanatha Karayalar which runs as follows:-

"216. By MR. S. CHATTANATHA KARAYALAR :

After Clause 32, add the following as additional clause :—

*(1) Subject to rules framed by our Government in this behalf, our Government may give aid to any recognised institution of the nature referred to in Section 15.

(2) Such aid may be given by our Government :—

(*a*) by granting a loan :

(*b*) by guaranteeing a cash credit, overdraft or fixed advance with a bank :

(*c*) by paying an annual subsidy :

(*d*) by subscribing for shares: or

(*e*) by guaranteeing a minimum return on the whole or part of the capital of the institution."

That was ruled out already.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*) : Sir, I move:—

In Clause 33, substitute "six" for "three" occurring between "period of" and "years" in line 2.

Sir, as amended the clause would read thus:—

"Notwithstanding anything in any law, contract, decree or order of court, for a period of six years from the date of the commencement of this Regulation, it shall be lawful, having regard to the circumstances mentioned below, for any

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court executing a decree not being a decree declared as such under, Section 16 to order that any money recoverable under the decree from a debtor be recovered in such number of instalments not exceeding twentyfour and spread over a period not exceeding twelve years in any case, as the court may in its discretion fix".

My object in moving this amendment is to make this provision much more useful than what the Legislature has in view. Sir, the provision as it stands is intended to confer the power upon the civil court to convert a money decree into an instalment decree. According to me, the most important provision in the whole Bill is Clause 33. It is admitted on all hands that sufficient opportunity or sufficient time should be given to these agricultural debtors to clear off their debt. For that, one of the reliefs suggested in this Bill is to allow them time to pay off their debts in easy instalments. With a view to effect that concession, Clause 33 is now proposed to be enacted. Sir, when we concede that the debtor should be given sufficient opportunities to pay his debts in easy instalments, we are trying to restrict that power by saying that the Civil Court shall exercise its jurisdiction in this matter only for a short period of three years. If this provision is passed in this House, it can easily be circumvented by the creditors. They can execute the decree or not execute the decree within the period of three years. Sir, according to the law now obtaining, no debtor is now competent to put in a petition to the Civil Court praying that the debt be recovered in instalments unless the creditor so consents. In order to do away with that consent, it is absolutely necessary that this section should be passed. Ordinarily the time that is now allowed for executing a decree is three years in the case of an unregistered decree and six years in the case of a registered decree. So within the period of limitation it is competent for the creditor to choose either to execute or not to execute a decree. From the provision now proposed to be enacted, it is admitted that a debtor in appropriate cases is entitled to get time extending to twelve years and twenty-four instalments for the discharge of the debt. In order to avoid that provision, in order to see that no debtor avails himself of that beneficent provision, every creditor who is so minded can very well keep quiet for three years without putting in any application for executing the decree.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : Is an application necessary for passing an order under Section 33 ?

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*) : As far as I am able to understand, the language employed in the Section only warrants such a presumption; and as far as I know, no debtor is now competent to put in a petition before a civil court for converting a money decree into an instalment decree unless the creditor consents. At the outset I stated that it is to do away with the consent that is necessary to convert money decree into instalment decree that this Section is proposed to be enacted. Therefore my point is we should not try to enact a provision which can very easily be circumvented by the creditor. So my suggestion that at least the maximum period of limitation, *viz.*, six years which is allowed under the law to

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execute a registered decree should be allowed during which a court in the land may in appropriate cases exercise their discretion in converting money decree into instalment decree.

MR. K. R. ELENKATH (*Kalkulam I*) : I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Addtional Head Sirkar Vakil*) : Sir, I oppose the amendment. The clause, to put it generally, is a clause that permits the delaying of the execution of decrees. I am not putting it in a bad sense. We have provided in the clause for the delay of the execution of the decrees for a period of three years. Mr. Krishna Panickar wants it to be extended to six years, not because he apprehends that the debtors would continue to remain in a bad plight for all these six years or that the debtor's condition will not improve by that time. He wants three years to be increased to six years because six years is the period of limitation for decrees ; and when that period of six years is over, the decree should remain unexecutable by reason of its execution having become barred.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*) : My intention is not that.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : That is what he said. A decree charged on property will be alive for six years and he wants this provision in Clause 33 to remain in force for six years : practically speaking, therefore, he wants to see that the decree is barred by limitation.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*) : That is not my intention. I stated that, ordinarily, the time allowed under the law, for the creditor to put in an application for execution, is six years. So, in order to defeat the beneficial provision proposed to be enacted, a creditor, if he chooses, can very well remain without putting in an application for executing the decree, so that he can avoid the maximum period of twelve years proposed to be conferred on the judgment-debtor, for payment in instalments. It is enough if the creditor puts in the application before the period of limitation, *viz.*, six years. So, by the time the creditor puts in the application for execution, the period of three years, contemplated in the present provision, will be over ; and then the Civil Court will not be in a position to exercise its discretion to order payment in instalments.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : It is now quite clear that the amendment is not based on the ground that the economic condition of the debtor may not improve within the next three years. Mr. Krishna Panikkar merely wants the creditor to be compelled to put in the execution application. I therefore oppose the amendment.

PRESIDENT : This is a special legislation to meet a special emergency ; so, we need not very much borrow from the law of limitation and other such enactments.

The amendment was put to vote and lost.

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MR. N. E. VARUGHESE (*Tiruvalla II*): Sir, I beg to move the following amendment:

"*In Clause 33, sub-clause (1) add the words 'or such further period or periods as may be fixed by our Government from time to time' after the words 'years' in line 2.*"

Clause 33 fixes a period of three years for the operation of this temporary relief. The basis for fixing that period is not clear, either from the Statement or Objects and Reasons or from the speeches made so far. I imagine that the idea is that it is hoped that, after three years, the depression will cease. Sir, from our experience during these few years, we see more or less that the depression has come to stay; at any rate, we cannot say definitely when the depression would cease.

Now, if, even after three years, the depression does not cease, there is no provision in the Bill by which the period of application of the special provisions in this enactment could be extended for a further period. All that I am suggesting, in my present amendment, is that the Government may be given the discretion to extend the period of operation of these special provisions, if they find such extension necessary.

MR. P. C. KURIYAN (*Kotiayam I*): Suppose the depression is over after two yeas?

MR. N. E. VARUGHESE (*Tiruvalla II*): Then, the Government need not extend the period. I only say that the Gevernment should have the discretion to extend the period, if there is any necessity to do so. Because, if, after three years, it is found that conditions do not improve or they get worse, the Government will be put to the necessity of introducing another Bill to amend the present one. That would mean delay and unnecessary expense. It is just to avoid such a contingency that I am now proposing the present amendment. All that I am suggesting is that the Government should be given the discretion to extend the period, if necessity arises. I therefore request the House to accept my amendment.

MR. K. M. KURIAKOSE (*Moovattupuzha II*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I oppose the amendment, Sir. It may seem rather strange that I should oppose an amendment which seeks to invest the Government with some power. But, Sir, my reasons are these.

Clause 33 is an emergency provision dealing with execution of decrees, necessitated by certain unforeseen circumstances. It may unfortunately be that, even after three years, the present-day conditions do not improve. If so, it is quite open to us to amend the Bill then, Sir, although it may involve some trouble. Government are prepared to undertake the responsibility sought to be placed on them by the proposed amendment; they do not want to shirk it. Now, if we vest the Government with this power to extend the period as they like,

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a perpetual sword of terror will be hanging over the head of the creditor, as it were, for an indefinite period. Already the creditor feels uneasy and nervous. Why should we unnecessarily create further terror in him by making further extensions of this provision possible? Government are also anxious that, if an extension becomes necessary, it must be made by the Legislature.

Further, if the Bill vests the Government with a discretion to extend the period, it will lead to unnecessary agitation, on the part of the debtors on the one hand to extend the period, and on the part of the creditors, on the other, not to extend the period.

All things considered, therefore, it is better to leave the provision as it is now in the Bill.

The amendment was put to vote and lost.

MR. N. E. VARUGHESE (*Tiruvalla II*): Sir, I beg to move the following amendment:—

In Clause 33, sub-clause (1), substitute the words, 'having jurisdiction to execute' for the word 'executing' in line 4.

Sir, this emergency provision says that it will be lawful for the execution Court to order that the debt may be paid back in instalments spread over a period of twelve years. But, it seems to me that the provision, as it is, would enable the Court to pass such an order only when it becomes an execution Court. A Court becomes an execution Court only when the creditor puts in the application for execution. Unless and until the execution petition is put in, the Court does not become Execution Court and cannot order payment in instalments spread over a period of twelve years. My point is that, to meet the ends of justice, and to see that the object of this Bill is fulfilled, we must provide that every Court having the power to execute a decree should be empowered to receive applications from the creditor as well as from the debtor, and pass the necessary order for the debt being paid back in instalments spread over a period of twelve years.

With these words, I place the amendment before the House for its acceptance.

MR. R. RAMAN PILLAI (*Changanacherry cum Peermade II*): I second the amendment. I submit, Sir, that, if this amendment is accepted, there will be no room for the fear expressed by Mr. Krishna Panickar nor for the danger anticipated by the Law member. It will enable a debtor himself to go to a Court and apply for the variation of the decree for payment in instalments. The creditor may conveniently wait till the period allowed lapses. The amendment, therefore, contains a very wholesome provision. For these reasons, I support the amendment,

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I oppose the amendment, Sir. It has been stated, in support of the amendment, that the creditor may forbear from executing his decree for three years, but that, after that period, he will execute the

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decree and therefore we must force him even now to submit to the provision contained in Clause 33. If a creditor voluntarily forbears from executing the decree for three years, it is only fair that he is left undisturbed at least after that period.

Further, the expression 'having jurisdiction to execute' is very indefinite and may lead to difficulties. I oppose the amendment.

The amendment was put to vote and lost.

PRESIDENT: Before I adjourn the House for lunch, let me, in the first place, express my gratitude to the House for the expeditious manner in which they have been doing this business and enabling the Chair to dispose of the large number of amendments on the Agenda. As Honourable Members are aware, it was hoped that the discussion of this measure will terminate this afternoon. I do not feel quite so certain as to whether I could still be so optimistic and hope that the Bill will be disposed of by this evening.

It is perfectly possible that a good portion of the amendments yet remaining on the agenda, may be disposed of this afternoon. If such a contingency should arise that some of the amendments have not been disposed of before the House rises this afternoon, I will authorise the Deputy President to announce to the House that it shall meet again on Thursday to continue the discussion of the remaining items on the agenda. I said Thursday, because, as honourable members may be aware, tomorrow is a public holiday. With that information, therefore, the House will now make the best efforts it can for the purpose of finishing the amendments this afternoon to avoid the prolongation of the proceedings to Thursday as well. But, if that becomes inevitable,—let me again say that it is not the intention of the Chair that important discussions should in any way be curbed — then the House will have to sit on Thursday and finish the rest of the work. The House will now adjourn and meet again at 2 O'clock.

The House rose for lunch at 1-2 P. M. and re-assembled at 2 P. M. with the Deputy President in the Chair.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, I beg to move the following amendment:

"*In Clause 33, sub-clause (1) delete the words 'from a debtor' in line 5*".

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I have got a point of order to raise. I shall do so after the mover explains his amendment.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, Clause 33 enables a court to allow instalment payment when execution of decrees is applied for. If a decree-holder has obtained a decree under which he is entitled to realise a certain amount, the court, on a consideration of the circumstances recited in the section, can allow payment of the same in instalments not exceeding 24 in number and spread over a period not exceeding 12 years. When we use the expression 'from a debtor', it means that that instalment concession is to be given only to the debtor as defined in the Regulation and not to the other judgment-debtors.

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Under the rights that have become vested in the decree-holders and which are assured by the Law they are entitled to execute their decrees without any condition of instalment payment. My real difficulty in restricting the scope to the case of agriculturist-debtors alone is that, where a decree-holder has obtained a decree against an agriculturist-debtor and the agriculturist debtor—

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I think that, as the member is now proceeding with the argument on his motion, I may raise my point of order. To this amendment and the next amendment, No. 222, as also to amendments Nos. 228 and 230 my point applies. I raise the point of order on the ground that these amendments seek to widen the scope of the Bill. The Bill is intended to give protection or relief to the agriculturists; and a debtor is defined in the clause which we have already passed as an agriculturist by whom a debt is due. In accordance with that, we have provided in Clause 33 that, in so far as there is a decree against an agriculturist debtor some relief shall be given. The object of this present amendment is to enlarge the scope of it, and to provide that relief shall be given to a judgment debtor even though he may not be an agriculturist. It is to widen the scope of the Bill which is confined to the agriculturist debtors. The result of the amendment will be to extend the scope of the Bill and to extend the relief to those who are not agriculturists. Therefore, I object that these amendments are not in order.

DEPUTY PRESIDENT: Is there any clause in the Bill which gives benefit to persons other than agriculturists?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Yes.

DEPUTY PRESIDENT: Which clause?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Clause 37.

DEPUTY PRESIDENT: Mr. Asan, what have you to say to the point raised?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, the existence of Clause 37, to which I have referred, itself shows that the relief intended to be conferred by this Bill is not throughout restricted to agriculturists alone. The widening of the scope of the clause is according to me necessary even in the interests of the agriculturist. The decrees against the agriculturists will not be treated as having as much weight or as being as good documents as decrees against non-agriculturists if my amendment is not accepted. That means that the utility of obtaining decree against agriculturists is very much lost and there will be very great reluctance on the part of people to help the agriculturists if the decrees as against the agriculturists are treated on a different footing from the decrees as against non-agriculturists.

DEPUTY PRESIDENT: Do you say that the agriculturists will be adversely affected by the provision in the Bill?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Yes.

DEPUTY PRESIDENT: How?

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MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, when an agriculturist wants to contract a debt, the person who has to advance the amounts will consider whether he will be able to enforce his claim against the agriculturist through a court of law to the same extent to which he could enforce such a claim as against a non-agriculturist and he will find that the advance to an agriculturist is more disadvantageous than an advance to a non-agriculturist.

DEPUTY PRESIDENT: So, your point is that, unless there is this provision, the agriculturist will be adversely affected?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Yes, Sir.

DEPUTY PRESIDENT: I think the amendment is in order.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): The hardship that will be caused by restricting the provision to agriculturists alone will be evident if we refer to Rule 16 of Order 21 of the Civil Procedure Code, which says that, where there are cross-decrees capable of execution at the same time by the court, the amount in the one would be set off as against the other. If the decree against the agriculturists is allowed to be executed in instalments and if the decree in favour of the agriculturists is to be executed immediately, the right of the decree-holder to set off under Order 21 Rule 16 is lost. In addition to that, the State owes a duty to the agriculturists as well as the non-agriculturists to see that a legislation passed by them does not adversely affect a particular section and ruin them. No particular hardship is to be caused to any vested interest on account of the amendment that is now proposed, because it only gives time to the judgment-debtor for payment of the debt in instalments. My submission is, that where we are trying to trespass upon the rights created by courts of law in the form of decrees. it is only legitimate and proper that we should do it with sufficient forethought so as not to affect the confidence that is now reposed in the courts of the land by the general public.

DEPUTY PRESIDENT: Nothing done in pursuance to law will be a trespass.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): We are only in the stage of enacting a law.

DEPUTY PRESIDENT: So you do not want to invade the rights of others?

MR. A. S. DAMODARAN ASAN (*Mavelikara*) No, Sir. With these words, I move the amendment.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I support the amendment moved by Mr. Asan. Sir, the principle underlying this amendment is that all the debtors in the State, whether agriculturists or non-agriculturists, may be enabled to get the benefit of Clause 33. As was stated by Mr. Asan, this amedment if accepted, will not work any hardship to anybody, Sir, I may submit that non-agaiculturists also may owe debts to agriculturists and that they may have obtained decrees also, for the recovery of those amounts. If we do not accept this amendment, they will be compelled by agriculturists to make payments immediately, that is in a lump sum, whereas the agriculturist-debtors will not have to pay in a lump. So, for maintaining

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reciprocity in the discharge of obligations it is indispensable to make the amendment that has been moved just now. So, I support the amendment.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I oppose the amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I oppose the amendment. The provision in Clause 33 perhaps may be characterised, though not very accurately, as a provision for delaying the execution of decrees. Now this provision is considered justifiable, because there is an urgent need to protect the agriculturists. The decree commands that the decree-holder shall be paid a particular amount. It is his right that he should be allowed to recover that amount. The court which sits as the representative of the Sovereign has commanded, say, that the plaintiff shall be given Rs. 10,000. That order of the court is equivalent to a command of the Sovereign and must be carried out. But, having regard to the unforeseen circumstances, which are treated more like an act of God, we are sitting here to devise some machinery for delaying the payment, of that amount; and we are doing all this because we find that the agriculturist is in a bad plight. The creditor thereby loses in one sense. We all know that. But, nonetheless, we consider it justifiable because there is an urgent necessity to save the agriculturist, as has been very often mentioned here. That is the only reason why we enact this provisions But to say that the non-agriculturist also should be given the benefit of this provision is to go against the very principle on the basis of which Section 33 is sought to be enacted. The non-agriculturist does not stand in need of any particular protection as the agriculturist who *ex hypothesi* is. It may be that every kind of debtor is in distress. But the question is why should we stay the execution of decree in the case of a non-agriculturist? Between the non-agriculturist debtor and his creditor there is no reason why the State should prefer the debtor. Both the creditor and the non-agriculturist-debtor are equal to the State and in the eyes of this Legislature; and if they are equal, why should we make an unusual provision for the benefit of one of them namely, the non-agriculturist debtor at the expense of the creditor?

We should in such a case leave things to the ordinary law. We should not make any special provisions.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Is there any law which empowers the court to order payment in instalments, after the passing of the decree?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No. Not now. That is why I say that the decree should be allowed to take the course that is commanded by the decree.

It has been stated that certain difficulties may arise in the case of cross-decrees. If an amount is due from a non-agriculturist to an agriculturist and *vice versa* and the court is informed of it the court will exercise its discretion, for the court is not bound in every case to order instalment payments.

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MR. A. S. DAMODARAN ASAN (*Mavelikara*): Suppose a decree is obtained subsequent to the passing of the order allowing instalment payments?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I think there is a provision to revise. If not, Mr. Asan may bring in an amendment for that purpose.

MR. P. C. KURIYAN (*Kottayam I*): Sir, I wish to support the amendment of Mr. Asan. I am one of those who believe that relief should be given to all agriculturists and non-agriculturists alike; and I too have sent in an amendment for this purpose. I believe that, in Travancore, confining the relief to a particular class will do more harm than good. Here, we do not mean to take away anything. The depression has affected everybody. It is only common justice to allow this concession to all. I am one who still believes that the definition of debtors will not cover all the debtors. With these words, I support the amendment.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Sir, I oppose the amendment of Mr. Damodaran Asan. In the first place, the subject-matter of this amendment was considered very carefully by the Select Committee and the words "from a debtor" were deliberately inserted there, as the Report of the Committee will show. The ground mentioned by Mr. Asan in support of this amendment is that, if it is not accepted, then the credit of the agriculturists will be adversely affected. For that purpose he proposes that the credit of the non-agriculturists also should be jeopardised and actually lowered so that they might stand on an equal footing. Sir, I cannot subscribe to this proposition. It is subject to very grave objections. In the first place, it is admitted on all hands that the credit of the agriculturists will be adversely affected by this legislation. That is no reason why the credit of the non-agriculturists also should be tampered with. In the second place, he assumed that the credit of the agriculturists or of the non-agriculturists depends only on his status as an agriculturist or non-agriculturist. The credit of a person depends upon so many other circumstances besides the fact that he is an agriculturist or a non-agriculturist. If the credit of a person depended entirely upon the fact whether he is an agriculturist or a non-agriculturist, then perhaps, I can understand the reasonableness of Mr. Asan's amendment. But the credit of a person depends upon several other circumstances.

Another reason alleged is that this facility for converting decrees into instalment decrees will operate as a double-edged weapon in the case of the agriculturist and therefore the non-agriculturist also should be subjected to the operation of the weapon, and penalised for no fault of his.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): If, in any given case the court, after taking into consideration all the circumstances enumerated in this clause, comes to the conclusion that the non-agriculturist is also entitled to get an order for payment in instalments, is the court competent to pass such an order?

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MR. S. CHATTANATHA KARAYALAR (*Shencotta*): That is purely a hypothetical question, and I am not going to answer it.

The position of Mr. Damodaran Asan that, because the agriculturist is subject to the operation of a double-edged knife, the non-agriculturist also should be subjected to the same operation is absolutely untenable. That is a wrong attitude and unfair to the non-agriculturist.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I never said that it is in the nature of a double-edged weapon.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): That is how I understood him, Sir, though he did not use the expression.

Sir, I cannot support any amendment which will have the effect of adversely affecting the credit of other people. So, I oppose the amendment.

The amendment was put to vote and lost.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): I move:

"*In Clause 33, sub-clause (1) substitute the word "forty" for the word "twenty-four" in line 6; and substitute the word "twenty" for the word "twelve" in line 7.*"

Sir, the object of the amendment is to extend the period of time allowed for the debtor to pay his debt under Clause 33. Under the Clause the court is given the discretion to allow the debtor to pay in twenty-four instalments spread over a period of twelve years. My amendment is that the number of instalments should be increased from twenty-four to forty and the years from twelve to twenty. The necessity for giving this concession of paying in instalments spread over a long period has been admitted by the framers of the Bill. The economic condition of the country justifies the demand that such a concession should be granted to the debtors. The Debt Redemption Committee, consisting of very able men having much experience of the country, after long deliberation and the taking evidence on the matter, came to the conclusion that the discretion of the courts should not be restricted to twelve years but should extend to twenty years. I do not see any reason why the framers of the Bill should have cut down the period to twelve years. It is not necessary for me to stress the condition of the agriculturists and their inability to pay the debts in a lump sum or in large instalments. This aspect of the question will come up again for discussion in connection with another amendment I have given notice of and therefore I will not dwell much further on the subject. All that I will now say is that the Committee have come to the conclusion that twenty years is not a long period. Therefore the amendment that I propose is not a great violation of the principle. Therefore, I request the House to accept it.

MR. S. J. NAIR (*Nedumangad*): I second it.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, I wish to support the amendment in order to point out that the period of twenty years proposed in the amendment need not alarm the House. It is only the

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[Mr. K. Kunjukrishna Pillai.]

maximum fixed. There is the discretion of the court to allow the necessary number of years with respect to each debt on the consideration of the merits of each transaction. The amendment only fixes the upper limit. I wish to point out in this connection that the period of twenty years and six monthly instalments have been fixed in order to suit the ordinary agriculturists having a moderate amount of debt, whose income will be from the two crops of the year. But, with regard to the Kuttanad agriculturists, the special circumstances have to be taken into consideration, because they do not cultivate their lands annually. They allow their lands to lie fallow in alternate years. In such circumstances, they may require a larger number of instalments than others, especially because it is seen that their debts are larger than those of others. Twelve years may not at all be sufficient in the case of big debtors. They may have to be given much more time. It is to cover those instances that a longer period is fixed. It is for the court to exercise its discretion and give a longer or shorter period according to the circumstances of each case. Therefore, I have very great pleasure in supporting the amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I oppose the amendment. Government consider that to put off or allow to be put off the payment due to a creditor for a period of twenty years would inflict too great a blow on him and too great a delay to be considered justifiable. It may be true that opinions may differ on this matter. It is also a fact that the Debt Redemption Committee has recommended twenty years. But subsequent to the Report of the Committee, Government had received several representations on this matter. Deputations too had waited on the Dewan. On a consideration of all these things, Government came to the conclusion that it is not justifiable to put the period beyond twelve years.

This provision in the Clause is in effect a delaying process; what the House has to consider is whether it is right that this delaying process should be allowed to continue for any period beyond 12 years, a period which may be called one ഭുജയുഗം. Twenty years' time is somewhere near a one-half of a man's life-time in these times. Even granting that a man will live up to 60 years, is it reasonable that the period should be fixed at what is a third of it. If we consider adult life, the period is as long as one half of it. It is too long a period for a man to be told to wait for his money. It will work serious hardship.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Will it not be a provision for his children?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): As regards treating it as a provision for his children, or perhaps grand-children, it will be a sort of compulsory provident fund to be utilised by his children. Speaking on ordinary practical considerations, it is but natural that a creditor, who has advanced money in the hope that he may get it back in his life time, will feel great grief if the debtor does not pay him. He must be able to utilise the money at

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least during his old age. This amendment seeks to make too great an inroad upon the rights of the creditor and it is not be justifiable. If it so happens that the economic depression is getting worse or the present condition does not improve, it is open to the Legislature to move in the matter. The Legislature can then propose another measure to smoothen affairs. If we even now fix the period at 20 years, it will be striking terror into the hearts of the creditor.

With regard to special provisions for Kuttanad, they should get more relief through a Board than being allowed a period of 20 years to make payment.

The amendment was put to vote and lost.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : I demand a poll.

A poll was taken with the following result :—

AYES 23.

1	Mr.	V. T. Chacko	13	Mr.	K. Mahomed
2	,,	A. Easwara Pillai (*Kottarakara*)	14	,,	Pacode A. Narayana Pillai
3	,,	M. Mahomed Haneef	15	,,	P. K. Thomas
4	,,	S. J. Nair	16	,,	Edavanatt S. Padmanabha Menon
5	,,	T. C. Joseph	17	,,	Kainikkara M. Padmanabha Pillai
6	,,	K. M. Krishnan	18	,,	Changanachery K. Parameswaran Pillai
7	,,	Pottayil S. Krishna Panicker	19	,,	R. Raman Pillai
8	,,	T. Krishna Pillai	20	,,	A. Thanu Pillai
9	,,	E. K. Kunjuraman	21	,,	N. E. Varughese
10	,,	K. M. Kuriakose	22	,,	T. P. Velayudhan Pillai
11	,,	P. C. Kuriyan	23	,,	K. Kunjukrishna Pillai
12	,,	M. K. Madhavan Pillai			

NOES—30.

1	Mr.	K. C. Abraham	16	Rao Sahib	S. Parameswara Aiyar
2	,,	T. K. Alexander	17	Mr.	V. Ramakrishna Panickar
3	,,	S. Chattanatha Karayalar	18	,,	R. Sambasiva Aiyar
4	,,	A. S. Damodaran Asan	19	,,	R. Sivaraman Nair
5	,,	A. Easwara Pillai (*Kalkulam II*)	20	,,	S. Thiraviam Nadar
6	,,	M. K. Janardana Kamath	21	Rao Bahadur	Dr. N. Kunjan Pillai
7	,,	T. S. Jayantan Nambootiri	22	Mr.	T. C. Thommen
8	,,	N. John Joseph	23	,,	K. N. Kesava Pillai
9	,,	K. C. Karunakaran	24	,,	C. V. Chandrasekharan
10	,,	Menatheri N. Kesava Panickar	25	,,	G. B. E. Truscott
11	,,	K. P. Krishna Menon	26	,,	Kayalam Parameswaran Pillai
12	,,	K. Madhavan	27	,,	K. George
13	,,	P. C. Narayanan Bhattatiripad	28	,,	C. O. Madhavan
14	,,	S. Nilakanta Pillai	29	,,	M. Govinda Pillai
15	,,	K. Padmanabhan	30	Vaidya Sastra Kusala	Dr. (Mrs.) M. Poonen Lukose

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NEUTRALS—6.

1 Mr. K. R. Elenkath	4 Mr. K. A. Narayana Pillai
2 „ Antony George	5 „ G. Nilakantan
3 „ T. T. Kesavan Sastri	6 „ T. P. Velayudhan Pillai

The motion was declared lost.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, I move the following amendment:—

"*In Clause 33, sub-clause (1) substitute the word "ordinarily" for the words "in any case" after "years" in line 7.*"

With the amendment, Clause 33 sub-clause (1) would read thus:

"Notwithstanding anything in any law, contract, decree or order of court, for a period of three years from the date of the commencement of this Regulation, it shall be lawful, having regard to the circumstances mentioned below, for any court executing a decree not being a decree declared as such under Section 16 to order that any money recoverable under the decree from a debtor be recovered in such number of instalments not exceeding twenty four and spread over a period, not exceeding twelve years ordinarily, as the court....."

With my amendment, I only wish to make it clear that it is better to trust the discretion of the Court with regard to extraordinary circumstances. Ordinarily, the maximum period allowed will be 12 years and 24 instalments. But, in special circumstances, under extraordinary circumstances, if the courts think it necessary to give an instalment or two more, or to extend the period slightly, the court must have the power to do it. Otherwise, in certain cases, it is possible that great hardship is likely to occur. It is merely to invest the court with wide discretion with regard to this matter, in exceptional circumstances, my amendment is put in. As it is, it ties the hands of the court and arbitrarily says that, under no circumstances, there shall be given more than 12 years and 24 instalments. It is a hard and fast rule. There is no reason or logic to fix it at 12 years and 24 instalments. I just want to loosen that tight hold and give the court a chance of administering justice, as circumstances would necessitate. I think, Sir, for the administration of justice, it will be better if the court is given a wide discretion in this matter. It cannot be said that the court is on the side of the debtor or the creditor. The court, it has been admitted on all hands, stands for justice and for the administration of justice. If that is conceded, I say, there is absolutely no reason why the court cannot be trusted to use its power, under extraordinary circumstances, to go out from the ordinary rule that is prescribed in this Bill. I think it will be a proper thing to do, and, the courts may avoid doing injustice because of powerlessness, owing to the restrictions imposed on it namely, that on no account, the period is enhanced or the instalments increased. Ordinarily, this may be a guide for the courts to give. But in extraordinary circumstances, the court must be trusted to do justice; and the amendment will not jeopardise anybody's rights.

MR. POTTAYIL S. KRISHNA PANICKER (*Shertala II*): I second it.

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MR. K. R. ELENKATH (*Kalkulam I*): I oppose the amendment. The Legislature should fix a definite period for courts to act upon. That an enactment should be definite is by itself a very material point. The Legislature should not leave a wide margin in the hands of the executive. If Mr. Kunjukrishna Pillai's amendment is incorporated, the clause as it stands will have no meaning whatsoever. We have to fix the time limit, so that the courts could not protract matters. The word "ordinarily" is very vague; and to entrust the courts with the power to use its discretion, without fixing any time limit, is dangerous. That may sometimes be abused.

This legislation is the outcome of an extraordinary situation. The Select Committee and the Government have come to a definite conclusion with regard to the period of 12 years and 24 instalments. There is no reason why that should be altered and made indefinite.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I oppose the amendment. This provision is subject to all the objections raised in respect of the previous amendment. If I am asked to prefer between these two amendments, I will certainly prefer Mr. Changanachery Paramesvaran Pillai's amendment, in that it tells the creditor where he stands. In regard to Mr. Kunjukrishna Pillai's amendment, the use of the term 'ordinarily' will mean that the period can be extended to 30 or 50 or even 100 years as the case may be. No limit whatever is placed. The Legislature must lay down some guide for the courts to follow. It is only proper that the Legislature indicates its mind to the courts in the land. We have indicated 12 years to be the maximum and Mr. Changanachery Paramesvaran Pillai's amendment sought to fix it at 20. But if we lay down that *ordinarily* 12 years shall be the period, it would follow that extraordinarily it may be even 100 years. Such provisions should never find a place in our Statute Book.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Does the member think that the court will be so unreasonable as to spread the instalments over an indefinitely long period?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Not that the court will be unreasonable. They will struggle to find out the intention of the legislature. But how are they to find out unless the Legislature expresses its intentions clearly and specifically? The interpretation of the law would be left to them. The court would not know and ought not to know what is at the back of the mind of the mover of an amendment. They will look to the words and see what they convey ordinarily. Some presiding authority may exercise his discretion and put the period at, say, 30 years Therefore this amendment is more ruinous to the creditor classes than Mr. Changanachery Paramesvaran Pillai's amendment.

MR. K. C. ABRAHAM (*Kottayam II*): Will there be any corrective to this loose discretion?

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No.

The amendment was put to the vote of the House and lost.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I move the following amendment:—

"*In Clause 33, sub-clause (2), add the words "if any" after the words "entire properties" in line 2.*"

Three conditions are necessary to enable a debtor to secure the benefit under sub-clause (2) of clause 33; in the first place, the debtor's entire properties shall be placed under attachment: and secondly, if the debtor so elects, he shall give adequate security to the satisfaction of the court. The third condition is that he must be prepared to deposit forthwith the full amount of the proposed first instalment. According to these conditions if a debtor owns properties worth Rs. 1,000 and if the debt is to the extent of Rs. 10,000, it is enough if he places under attachment his properties worth Rs. 1,000. It may so happen that the debtor may not possess any property at all. If an honest debtor is willing to pay up the whole decree amount provided he is allowed to make payment of the debt in instalments, if we allow this clause to remain as it is, it may not be possible for him to claim the benefit that will accrue under this clause, however he will have to give sufficient security for the whole amount under the decree. Nobody will come forward to give security for such a man. Whereas a debtor owning one inch of landed property will get the benefit of this provision by placing under attachment that one inch of land alone whatever may be the amount of the debt. This is inequitable and unjust.

MR KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Will it not be necessary if all his properties are placed under attachment?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Suppose he does not possess any property.

In that case my submission is that he must also be enabled to claim the benefit of this clause. So if we allow this clause to remain without accepting my amendment, an honest debtor who does not possess any property at all and who is prepared to pay the debt in instalments may not be able to do so. He may not get also the benefit under this clause. So it is highly necessary that my amendment should be accepted. Moreover my amendment relates to the agricultural debtors alone. So I commend my amendment to the unanimous acceptance of the House.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am prepared to agree to this amendment. Sub-clause (2) requires that the debtor's entire properties be placed under attachment meaning thereby that he *has* got some properties. If he has got but

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one square inch of land, it may be placed under attachment and the debtor can get relief : but he cannot if he has *no* property at all. The amendment seems to be reasonable. But I leave it in the hands of the House. For my part, I am prepared to accept it.

The amendment was put to the vote of the House and carried.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I beg to move the following amendment :—

"*In Clause 33, sub-clause 2 delete "or such portion of it as may be fixed by the Court" occurring at the end.*"

My point is that, when an amount is ordered to be paid by instalment, a creditor should be allowed to get the first instalment to begin with. The amount is divided into 24 instalments extending over a period of 12 years. In view of the fact that an order to that effect has been made, I submit, it is only reasonable that the debtor should be called upon to pay at least one instalment on the spot. The very first instalment need not be sub-divided into further instalments. We have already split up the decree amount into 24. One such instalment need not again be split up. The object of the amendment is therefore to make it incumbent on the court to order the first instalment to be deposited before an order for instalment payment is made.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I oppose the amendment. Mr. Sambasiva Aiyar's principle is that the creditor must be given at least the first instalment before the decree is stayed. Generally speaking, this is acceptable. But it will be recognised that the first instalment may not always be available at short notice. Therefore, the debtor may have to be given some time, but he has to pay something forthwith So, the creditor has not to go from the court empty-handed.

The amendment was put to the vote of the House and lost.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : I beg to move:—

"*In Clause 33, add the following as an Explanation to the Clause : "Explanation—Discretion vested in courts in the above Section should ordinarily be exercised in favour of the debtor.*"

By this explanation nothing is sought to be added to the existing clause. The Legislature has thought it fit to fix a certain limit in the matter of instalment payment.

I want to put the word "should".

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): That word "should" should not be used in an enactment it should be "shall".

DEPUTY PRESIDENT: Mr. Karayalar seems to suggest that the word "should" be "shall"; have you any objection ?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): No, Sir.

Sir, the principle underlying this clause is admittedly conceived to be in the interest of the debtors. There is no denying that fact.

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): One question. Suppose a court says the whole decree amount should be paid in five instalments. Will it be a discretion exercised in *favour of* the debtor or against him?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): No. It will not be a discretion in favour of the debtor. That is exactly the reason why I am moving this addition as an explanation to the clause. Sir, it will be seen from the clause that only an upper limit is fixed in the clause with regard to the number of years as well as the number of instalments. Within this upper limit of twelve years and twenty-four instalments, there is a very wide discretion vested in the court. Sir, it is all very well that this discretion is vested in our courts; and we all hope that the discretion will be used not in an arbitrary or unreasonable manner, but will be used in a reasonable manner. In using the discretion, the courts will adopt different standards within the upper limit.

DEPUTY PRESIDENT: If you say it is the court's discretion, how can the Legislature give a further direction as to the way in which the discretion has to be exercised?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): It is perfectly within the right of the Legislature to give a direction or, as the Law Member said, to indicate the view of the Legislature clearly.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Is it the member's opinion that the maximum period should be allowed in every case?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): No that is why the word "ordinarily" is cautiously used there.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Is not every order of the court, for payment in instalments, a discretion exercised in favour of the debtor?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): That is because the law lays down such a direction. In the absence of such a clause, I do not think any court will be under an obligation to pass such an order.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Seeing that there is a clause here, will not the court exercise its discretion in favour of the debtor?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): The clause lays down only the upper limit. Different cases will come up before the court to exercise its discretion. Let us take one practical illustration, Sir. We will take that there are two cases, the debt being Rs. 1,000. It will be in the best interest of the debtor to pay up this amount, say, in 10 years, covering twenty instalments. That will be in the best interest of the debtor and then of course the creditor either says that he is prepared to accept this or raises some objection Anyhow the particular court before which this question comes up allows this. In exactly a similar case in another court, though it will be in the best interest of the debtor to be allowed to pay up the whole amount in twenty instalments spread over a period of ten years, it will be open to the creditor to raise an objection. The creditor will say, "No, I am not

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prepared to accept this arrangement, *viz.*, twenty instalments and ten years. I want the whole amount to be paid in five years covering ten instalments." Sir, it can be seen clearly that this is not in the best interest of the debtor. When such doubts arise before the court in exercising the power vested under this clause, of course, we have to indicate our views and we have to give a direction.

A. S. DAMODARAN ASAN (*Mavelikara*) : The only thing the member wants is that the court must be partial to the debtor in exercising its discretion. Is that so ?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : When doubtful cases arise, certainly the benefit of the doubt must be given to the debtor.

MR. K. R. ELENKATH (*Kalkulam I*) : In fixing the period, may I know whether, even though the court decides according to its discretion, it may be construed, as a result of this Explanation, as something which is not beneficial to the debtor ?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : It is not something which the court of its own motion offers to the party. When a decree is executed under this section, the court will ascertain the paying capacity of the debtor and the condition of the creditor and then of course both sides will put forward their contentions. Under Clause 33, the debtor will express by means of petition his intention.

MR. K. R. ELENKATH (*Kalkulam I*) : My point is whether any period less than the maximum period fixed is to be construed as something detrimental to the debtor ?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : That is not my point, Sir. My point is that just, to avoid the conflict in the exercise of this discretion, I want to add this proviso to the sub-clause.

In this connection, I wish to bring to the notice of the House that the whole principle underlying this clause 33 was elaborately canvassed by the Debt Redemption Committee and they say at page 113 of their Report—

DEPUTY PRESIDENT : Do they say that the Courts should exercise their discretion in favour of the debtor ?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : I am coming to that, Sir.

> "In the execution of any decree for money whenever passed, it should be competent to the court to order, having regard to the circumstances noted below, that the amount due should be recovered in such number of instalments spread over a period not exceeding twenty years on such terms as the court thinks fit to impose. And it should also be competent to the court, having regard to the said circumstances, to revise from time to time, the order once passed and in revising order that the amount already ordered to be recovered in instalments be recovered in a lump, or that the number of instalments already fixed be increased or decreased, or that the period of the instalments be varied, or that the terms imposed be varied and the like".

Then the learned members of the Committee add a very important and significant note to that discretion, Sir. It is this :—

> "The Committee is of opinion that the court should exercise this discretion ordinarily in favour of the agriculturist-debtor".

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[Pacode A. Narayana Pillai.]

Sir, it is only when the whole principle underlying the whole discussion is accepted we have got a full measure before us. What the framers of this Bill have done is that they just adopted a certain portion of the Committee's recommendation and left out the important and significant direction that is given there.

MR. K. PADMANABHAN (*Chirayinkil I*): May I know why the member anticipates that, under the provision contained in this clause, the discretion will not be exercised in favour of debtors in deserving cases?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Sir, I need not answer that question. All of us who have anything to do with the courts of law know how different courts exercise their discretionary power in different ways and sometimes the exercise of this discretionary power leads to a lot of conflict. Of course, the parties or the Vakils will then attribute that to partiality or to some other circumstance. So, in order to avoid all these unpleasant situations, we should indicate our views, in the words of the learned Law Member, clearly so that there may be uniformity.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Is the member aware that, in view of the provisions contained in clause 33, there must certainly be some limit or other for the courts to know how far they could go?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Exactly.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Does the member realise that such limit will depend upon the opinion of individual courts?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Yes. This explanation, if it is there, will give an indication to the Court, when conflict arises or when there is opposition between the creditor and the debtor. With regard to fixing the period and fixing the number of instalments, the courts may feel some doubt; and then, Sir,—

DEPUTY PRESIDENT: You have explained that.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Yes. So, Sir, I commend this explanation for the acceptance of the House.

MR. A. EASWARA PILLAI (*Kalkulam II*): I second it.

MR. V. RAMAKRISHNA PANICKAR (*Kartikapalli II*): Can there be ordinary discretion and extraordinary discretion?

DEPUTY PRESIDENT: Mr. Easwara Pillai has seconded the motion before you put the question.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I oppose this amendment. The amendment as framed is perhaps difficult to understand. But as I elicited by a question put by me, Mr. Narayana Pillai's idea seems to be that any discretion exercised by the Court in ordering payment of the debt in instalments within a period shorter than twelve years will be a discretion exercised *against* the debtor. According to him, if the order is to pay the debt even in eleven years and by twenty-two instalments, even that will not

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be a discretion *in favour of* the debtor. Practically then it comes to this. The Court must give twelve years and also twenty-four instalments in all cases. That will be the effect of Mr. Narayana Pillai's amendment. Now, Sir, we cannot say that *all* debtors deserve twelve years and twenty-four instalments. It all depends on the circumstances of each case. Perhaps the debt may be but Rs. 50. Are we to give twelve years for that? Again the debtor may be a rich man and the creditor a poor man. Are we to tell that the poor creditor is to wait for twelve years to get his money? The Court will look to all these things and the Court will exercise its discretion and do justice as between party and party. Further, it is not quite proper for a Legislature to proceed on the basis of showing any partiality to any party. Our attempt should be to do justice between party and party.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): By enacting clause 33, does not the Legislature show partiality to the debtor?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vahil*): It is not partiality; it is justice that we do. I emphatically repudiate the suggestion of partiality.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I know whether that justice is full?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, according to me. To lay down that in every case a twelve years' period should be fixed is unjust.

MR. A. THANU PILLAI (*Trivandrum-Rural*): May I know whether, in that case, it is discretion?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is not discretion at all. To lay down an iron bound rule is not to allow discretion.

The amendment was put to vote and lost.

DEPUTY PRESIDENT: The next amendment is by Mr. Sambasiva Aiyar. There was something said this morning about the admissibility or inadmissibility of Mr. Sambasiva Aiyar's amendment. I understand that Mr. Sambasiva Aiyar's amendment given notice of at a late stage was ruled out by the President this morning. Belated amendments may not be allowed to be moved, ordinarily. What is the special feature of this amendment to excuse delay?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Sir, I merely want to clarify certain points based on the principles already accepted by the House. I request the permission of the Chair to move the amendment. I shall be brief in my argument.

DEPUTY PRESIDENT: In the light of the ruling given by the Chair, and considering also the great inconvenience that may be caused to this House by fresh amendments being moved at this belated hour. I must say that, unless circumstances of an extraordinary character, for instance, the absurdity of some provision in this Bill, are brought to my notice and I am convinced that the amendment is very important, I do not think I shall be justified in varying the rule as to the admissibility of amendments.

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MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I make a suggestion to the Chair, Sir? Some of Mr. Sambasiva Iyer's amendments were allowed this morning as a special case because it was found that he could not have foreseen some of the provisions that have now been accepted by the House. Fresh amendments could be allowed to be moved at this stage only if he is able to convince the Chair that he is in a similar position now also.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I understand that Mr. Sambasiva Aiyar sent up the amendment, he now wants to move, even yesterday and that it was not got typewritten till now as it was not hoped that we would reach the clause so soon. He may therefore be allowed to move the amendment.

DEPUTY PRESIDENT: In the circumstances that have been explained, I permit Mr. Sambasiva Aiyar to move his amendment.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Sir, I beg to move the following amendment:

"*Add the following proviso to Clause 33.*

Provided that nothing in this Section shall apply—

(a) *to any decree passed for the recovery of any debt incurred after the commencement of this Regulation, or*

(b) *to any decree which is not a decree for the recovery of any debt.*"

Sir, we have accepted the principle that practically no reduction shall be made in the case of debts incurred after the commencement of this Regulation. Just as we have exempted debts incurred after the commencement of this Regulation from the operation of Clause 15, it is only fair that we exempt decrees passed for the recovery of such debts from the operation also of Clause 33. As it is, according to Clause 33, payment in instalments could be ordered even for the recovery of decrees for debts incurred after the commencement of this Regulation. Sir, the Bill defines what debt is, and who a debtor is, for the purpose of this enactment. It will not do if, for the extraordinary relief afforded by this measure, the person claiming it is a debtor as per the definition in this Bill. He must also prove that the debt in question is a debt under the definition of debt in the Bill. It is just to make that point clear that I am proposing this amendment. Clause 33, according to the principle that this House has accepted already, should apply only to decrees for debts incurred before the commencement of this Regulation. I may again point out to the House that, by adopting this amendment, the House would only be reiterating and clarifying the principle that we have already accepted in some of the earlier clauses of the Bill. I therefore commend this amendment for the acceptance of the House

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, in regard to the part (*a*) of the Proviso now proposed by Mr. Sambasiva Aiyar, I quite agree that it is perfectly reasonable. We have already passed certain provisions exempting debts incurred after the commencement of this law from the operation of its provisions. It is only to give fuller effect to such provisions that part (*a*) of the

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amendment seems to be proposed. I would say that it is a reasonable proposal that Mr. Sambasiva Aiyar is making. One objection taken against this measure is that it is likely to affect the credit of the agriculturist. That is true to a considerable extent. It is to save the future credit of the agriculturist that we have made some provisions that the Bill shall not apply to debts to be incurred after the commencement of this new law. The circumstances that justify the protection of the agriculturist, in regard to debts he has already contracted, do not also exist in regard to debts that he may incur after the commencement of this Regulation. I am therefore prepared to accept part (*a*) of the amendment.

In regard to part (*b*) also, I am agreeable to the principle involved in it, but I am not sure whether that is not implied in the provision even as it is. Because, the definition of 'debt' excludes trade debts of the agriculturist.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : Under the definition of 'agricultural debtor', the debtor can get the benefit of the Bill even for debts which may not be covered by the definition of 'debt'.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : The definition of 'debt' that we have already passed specifically excludes the trade debts of the agriculturist. For the purpose of Part III of the Bill, that principle has been accepted by the House.

Clause 33, as it provides ' Whenever decree amount has to be recovered from a debtor.....', seems to have reference to debts coming under the definition of 'debts' and therefore not to the trade debts of the debtor. That is what it seems to me. But, I have no objection in making that clear by adopting part (*b*) of the Proviso now proposed to be added by Mr. Sambasiva Aiyar. It will be only carrying out the principle already accepted by the House.

I shall not say more now. If there is any opposition, I request I may be given a further opportunity to speak on this amendment.

DEPUTY PRESIDENT: A member who has once spoken on an amendment can again speak upon it. Therefore, unless the Law Member is going to draw my attention to some specific rule under which I could allow him to speak again on this amendment, I would suggest to him to anticipate the possible arguments that might be raised against this amendment and deal with them even now.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : The Chair always has an inherent right to allow any member to speak at any stage.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : I have no objection to part (*a*) of the amendment. But I oppose part (*b*). When I opposed the definition of 'debt' and urged the inclusion of all kinds of debts of the agricultural debtor as defined in this Bill, the Law Member said that trade debts etc. would be excluded only from Clause 34, since Clause 33 relates only to decrees and orders of courts. I expressed some doubts even then as regards the correctness of that proposition. I did not expect the Law member to come forward with an argument so soon by which he admits that my position is correct and his proposition wrong.

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Sir, the provision deals with an order to be passed after a decree is passed. Certainly, it cannot be seen from the decree whether a debt is a trade debt or any other kind of debt. So, the Court will have to enquire into the history of the debt in question. That, I do not think, is quite desirable. The Execution Court must be in a position to proceed summarily with execution and to allow payment in instalments. As I said, Sir, even at the earlier stages, I was against the exclusion of the trade debts of the agriculturists. Now, I may say that it is not right that we take up the time of the Execution Court by asking them to enquire into the history of every debt in order to find out whether it comes within the definition of 'debt' or not.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Even if the present provision is left as it is, will it not be open to the creditor to invoke the definition in Clause 2 and say that trade debts should be excluded?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): That is a matter of interpretation; and I do not want to commit myself to any statement. I have my own serious doubts about it.

MR. A. THANU PILLAI (*Trivandrum-Rural*): To me it appears that it is doubtful whether the creditor can seek the aid of the definition in Clause 2, and say that this provision in Clause 33 should not be extended to the trade debts of the agriculturist. Sir, whatever be the purpose for which the debt was incurred, after all it is the agriculturist that has got to pay it.

The debt may be a trade debt but the debtor may be an agriculturist because he may owe other debts covered by the definition. He may be an agriculturist at the same time.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Could not the decree-debt itself be a trade debt and other debts combined?

MR. A. THANU PILLAI (*Trivandrum-Rural*): It may be. Apart from all that, no great harm will accrue if we retain the clause as it is and allow all debts due from agriculturists to be brought under the provision. There is also the additional difficulty pointed out by Mr. Asan.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): May I draw the attention of the member to the definition of the word 'debtor' wherein it is stated that he must be an agriculturist and also a person by whom a debt is owing?

MR. A. THANU PILLAI (*Trivandrum Rural*): To me, it appears that every kind of debt, for which a decree has been obtained against an agriculturist, will come under the operation of this provision; and I say that that is a perfectly sound proposition. The provision may therefore stand as it is. Hence I oppose the amendment.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Sir, I oppose the amendment. If we realise from the definition of the word 'debt' given in Clause 2 that it means any liability of an agriculturist due in cash or in kind, secured or unsecured, payable under a decree or order of a civil court, we will see that no distinction is sought to be made. All the decree debts of an agriculturist are brought under that definition.

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does it include debts incurred for purposes of trade?

MR. PACODE A NARAYANA PILLAI (*Vilavankod*): Irrespective of the purpose for which the debt was incurred by an agriculturist, the decree debt of the agriculturist was considered to be a debt under the Bill. Such being the case, Sir, it is rather innocuous to bring an amendment as contained in proviso (*b*).

With regard to proviso (*a*), Sir, my view is that, though no doubt for certain purposes debts incurred after the commencement of this Regulation were excluded, the House will remember that it was for purposes of Part II that post-Regulation debts were excluded and we are now at a different part altogether which, as the short heading shows, deals with temporary measures regarding execution of decrees and interest. We are at a different subject altogether. It is only for the purposes of conciliation that a few debts were excluded. Now, Sir, so far as these temporary measures relating to execution of decrees are concerned, I do not think that any such restriction should be placed with regard to the period.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): With your permission, Sir, I should like to say a word. With regard to part (*a*) of the amendment, there seems to be no difference of opinion. In regard to part (*b*), as Mr. Asan very properly said, it is rather a matter of interpretation because the word 'debtor' which exists in the clause as it is may include a judgment-debtor against whom a decree has been obtained for trade debts. If it is the intention of the House that trade debts should be excluded so that trade may prosper, then the House ought to accept proviso (*b*). I can certainly agree with the position that, once a decree is obtained, some respite should be given to the debtor. But if the House thinks that, in the interests of trade, such decrees should be excluded, then they ought to accept proviso (*b*).

In regard to part (*a*), I am quite clear that it ought to be accepted. Anyhow the two parts may be put to vote separately.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Have we not already accepted the position that trade debts should be excluded?

DEPUTY PRESIDENT: I shall split the amendments into two parts and put them to vote separately.

The first part of the amendment, to add the following Proviso to Clause 33:

"Provided that nothing in this section shall apply to any decree passed for the recovery of any debt incurred after the commencement of this Regulation."

was put to vote and declared carried.

The next part of the amendment, to add the following:

"Provided that nothing in this section shall apply to any decree which is not a decree for the recovery of any debt."

was put to vote and declared lost.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I demand a poll.

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A poll was accordingly taken with the following result :

AYES—24.

1	Mr. N. Abdur Rahiman Sahib	13	Mr. K. Padmanabhan
2	Rao Sahib S. Paramesvara Aiyar	14	,, R. Sambasiva Aiyar
3	Mr. J. M. Joseph	15	Rao Bahadur Dr. N. Kunjan Pillai
4	,, S. Chattanatha Karayalar	16	Mr. T. C. Thommen
5	,, T. S. Jayantan Nambootiri	17	,, K. N. Kesava Pillai
6	,, N. John Joseph	18	,, G. B. E. Truscott
7	,, T. T. Kesavan Sastri	19	,,Kayalam Parameswaran Pillai
8	,, K. M. Krishnan	20	,, K. George
9	,, K. P. Krishna Menon	21	,, C. O. Madhavan
10	,, P. C. Narayanan Bhattatiripad	22	,, M. Govinda Pillai
		23	Mrs. M. Poonen Lukose
11	,, V. Ramakrishna Panickar	24	Mr. A. Easwara Pillai (*Kalkulam II*)
12	,, K. C. Karunakaran		

NOES—28.

1	Mr. T. K. Alexander	18	Mr. Puthupalli S. Krishna Pillai
2	,, V. T. Chacko	19	,, A. S. Damodaran Asan
3	,, M. Mahomed Haneef	20	,, Pacode A. Narayana Pillai
4	,, S. J. Nair	21	,, N. K. Krishna Pillai
5	,, A. Thanu Pillai	22	,, R. Sivaraman Nair
6	,, K. R. Elenkath	23	,, Kainikkara M. Padmanabha Pillai
7	,, Antony George	24	,, Edavanatt S. Padmanabha Menon
8	,, P. C. Kuriyan	25	,, Pottayil S. Krishna Panickar
9	,, S. Nilakanta Pillai	26	,, K. A Narayana Pillai
10	,, T. C. Joseph	27	,, M. K. Madhavan Pillai
11	,, T. Krishna Pillai	28	,, V. K. Velappan Nair
12	,, E. K. Kunjuraman		
13	,, K. Mahomed		
14	,, K. M. Kuriakose		
15	,, K. Madhavan		
16	,, R. Raman Pillai		
17	,, K. Kunjukrishna Pillai		

NEUTRALS—6

1	Mr. K. C. Abraham	4	Mr. Changanachery K. Paramesvaran Pillai
2	,, N. E. Varughese	5	,, P. K. Thomas
3	,, S. Thiraviam Nadar	6	,, G. Nilakantan

The amendment was declared lost.

The question that Clause 33, as amended, do stand part of the Bill was put and carried.

The Clause, as amended, was added to the Bill.

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BUSINESS OF THE HOUSE.

RAO BAHADUR DR. N. KUNJAN PILLAI (*Chief Secretary to Government*) : With your permission, Sir, I wish to make a statement. Before the House adjourned to-day for lunch, the President said that there was the possibility of this House meeting on Thursday. It all depends upon the progress we are able to make with the Bill today. But so far as one is able to judge, it seems that the House will have to meet on Thursday also. In that case. I would request the Chair to waive the rules regarding the agenda and questions and answers. Under the rules, an agenda has to be printed and circulated and also questions have to be answered. As this is an emergency which we did not foresee, I must admit that the Government are not quite ready with answers to questions. Also, it is not possible to prepare an agenda and get it printed and circulated. So, Sir, if the House would agree, I would request you to waive the rules requiring questions to be answered and also the agenda to be printed and circulated for the meeting on Thursday.

DEPUTY PRESIDENT : This is a very important piece of legislation ; and the House, I am sure, will be anxious to finish it. The only difficulty which presents itself to my mind is that Standing Order 9 says that the first hour of every meeting shall be available for the asking and the answering of questions. The word used there is 'shall'. But that does not mean that this House cannot subscribe to the position that, under exceptional circumstances the rule may be departed from ; and I am told that there has been a precedent some time back. Is that so, Mr. Parameswaran Pillai ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I am not quite sure, Sir. But I believe there was a precedent at the time of passing the Jenmi Kudiyan Regulation. I think Mr. Asan himself contradicted me when I mentioned it on a prior occasion. But, if the House gives its assent, I think a departure may be made.

DEPUTY PRESIDENT : Anyhow, with the reservation that this in itself shall not be a precedent, I am agreeable to put it to the House whether it agrees to the proposal.

(*Cries of 'Yes'.*)

DEPUTY PRESIDENT : There will be no Questions and Answers on Thursday. This Bill will be the only matter before the House that day. No agenda will be circulated.

MR. N. E. VARUGHESE (*Tiruvalla I*) : സർ, നമ്മതെ വകുപ്പിനെ താഴെ പറയുന്നവണ്ണം ഭേദപ്പെടുത്തണമെന്നുള്ളതാണ് എന്റെ ഭേദഗതി.

"*Notwithstanding anything in any law, contract, decree, or order of Court, no interest shall be deemed to have accrued or shall accrue or be permitted to be recovered as accrued or accruing for the period commencing from the 1st of Chingam 1105 to a period of three years from the date of the commencement of this Regulation or such further period or periods as may be fixed by our Government from time to time, in respect of any debt (not due in paddy or grain) in existence on such date, at any rate exceeding 6 per cent. per annum.*

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[Mr. N. E. Varughese.]

ഇതിൽ "or such further period or periods as may be fixed by our Government from time to time" എന്ന വാക്കുകളെ പിൻ വലിച്ചുകൊണ്ടാണ് ഞാൻ ഈ ഭേദഗതി ഹാജരാക്കുന്നത്.

ഈ ബില്ലിന്റെ പ്രാരംഭത്തെ തിരുവിതാംകൂർ കർഷകഋണമോചനബില്ലെന്നാണ് കാണുന്നത്. അതായത് തിരുവിതാംകൂറിലെ കർഷകരുടെ ഋണബാദ്ധ്യതയുടെ ഉപശമനത്തിനായി ചില വ്യവസ്ഥകൾ ഉണ്ടാക്കാനുള്ളതാണ് എന്നാണ് ആദ്യമേ കാണുന്നത്.

MR S. J. NAIR (*Vedumangad*): I rise to a point of order. In this amendment, the last words are "six per cent per annum". In amendments Nos. 261 and 262, the words are "four per cent". If Mr. Varughese is permitted to move his amendment, and, if by chance he succeeds, the honourable members who have given notice of those two amendments would be prevented from moving them.

DEPUTY PRESIDENT: If Mr. S. J. Nair had raised this point in time, it could have been considered. But when Mr. Varughese is proceeding with his speech, I do not think he can be stopped. The point may be considered later on. Mr. Varughese may go on.

MR. N. E. VARUGHESE (*Tiruvalla I*): കർഷകഋണമോചനത്തിനായിട്ടുള്ള ഈ ബിൽ നടപ്പായതിനുശേഷമുള്ള പലിശയെ സംബന്ധിച്ച് ഇതിൽ പറയുന്ന വകുപ്പുകൾ കർഷകരുടെ ഋണബാദ്ധ്യതക്ക് വല്ലശമനവും ഉണ്ടാക്കുന്നതാണോ എന്ന് ഈ സഭ ഗാഢമായി ഒന്നു ചിന്തിക്കണം. കർഷകർ ഋണബാദ്ധ്യതകൊണ്ട് ഭാരപ്പെട്ടിരിക്കുന്നു എന്നുള്ളതു തർക്കം നിഷേധിക്കാവുന്നതല്ല. അതായത് വേറൊരു രൂപത്തിൽ പറയുകയാണെങ്കിൽ ഓരോകർഷകന്റെയും തലയിൽ ൨൦൦ രൂപാ ഭാരമുണ്ട് എന്നു വിചാരിക്കുക. ഈ ഭാരം അവനു വഹിക്കാൻ പാടില്ലാത്തവണ്ണം ആയിരിക്കുന്നു എന്നു ഗവണ്മെൻറും പൊതുജനങ്ങളും സമ്മതിച്ചു കഴിഞ്ഞു. ആ ഭാരത്തിൽനിന്നു ഒരു പത്തു രൂപയോ അഞ്ചു രൂപയോ എടുത്തു മാറ്റിയാലല്ലാതെ ഋണബാദ്ധ്യതക്ക് ഒരു മോചനം ഉണ്ടാകുന്നതു് എങ്ങിനെയാണ്. കടത്തിലകപ്പെട്ടിരിക്കുന്ന ഒരു കൃഷിക്കാരനു മോചനം ഉണ്ടാക്കേണ്ടതു് അവശ്യമാണെന്ന് ഗവണ്മെൻറുംസമ്മതിച്ചുകഴിഞ്ഞു ഈ ബില്ലിലെ തത്വവും സ്വീകരിച്ചുകഴിഞ്ഞു. ഇതിലേക്കു നിർദ്ദേശിച്ചിരിക്കുന്ന മാർഗ്ഗം അതിനു പര്യാപ്തമാണോ എന്നാണ് ഈ സഭ പര്യാലോചിക്കേണ്ടതു്.

MR. K. R. ELENKATH (*Kalkulam I*): ഈ ഭേദഗതികൊണ്ടു് ഉദ്ദേശിക്കുന്നതു ൧൯൩൫-നുമേൽ ഈ റെഗുലേഷൻ പാസ്സാകുന്നതുവരെയുള്ള പലിശ ആറു ശതമാനമാക്കണമെന്നാണോ?

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MR. N. E. VARUGHESE (*Tiruvalla I*) : ഇതിൽ വ്യക്തമായി പറഞ്ഞിട്ടുണ്ട്.

ക്രാ ഠ ൪-മുതലുള്ള ഋണബാദ്ധ്യതകൊണ്ടാണ് കൃഷിക്കാർ ഭാരപ്പെട്ടിരിക്കുന്നത്, അതിനാൽ അതിലേക്ക വല്ല മോചനവും ഉണ്ടാകണമെങ്കിൽ ക്രാ ഠ ൪-മുതൽക്കുള്ള കടബാദ്ധ്യതക്ക കുറെ എങ്കിലും ശമനം ഉണ്ടാക്കേണ്ടതത്യാവശ്യമാണ് എന്നു ഋണനിവാരണക്കമ്മിറ്റിക്കാരുടെ റിപ്പോർട്ടിൽ പ്രതിവാദിച്ചിട്ടുണ്ട്. എന്നാൽ ഈ ബിൽ കൊണ്ടുവരുന്നത് കർഷകന്റെ ഇരുന്നൂറു രാത്തൽ ഭാരവും അവർ വഹിച്ചുകൊള്ളണമെന്നാണ്. ഈ അഭിപ്രായത്തോട് യോജിക്കാൻ നിവൃത്തിയില്ല. ഈ ബില്ലുകൊണ്ടു കർഷകക്ക വല്ല പ്രയോജനവും ലഭിക്കണമെങ്കിൽ ഏതു കാലത്തു് അവരുടെ ഉല്പന്നങ്ങൾക്ക വില കുറഞ്ഞുവോ, ആകാലംമുതൽക്കുള്ള പലിശയിൽ കുറവുകിട്ടണം. ഉല്പന്നങ്ങൾക്ക വിലകുറഞ്ഞകാലം മുതൽ കർഷകരുടെ കടങ്ങൾ പലിശക്രമത്തിൽ വർദ്ധിച്ചു, ഉല്പന്നങ്ങൾവിറ്റ പലിശയുടെ അംശമപോലും തീർക്കാൻ സാധിക്കാതെ വഴികയുംചെയ്തു. അതുകൊണ്ടു ഉല്പന്നങ്ങളുടെ വിലകുറവുണ്ടായകാലം മുതൽ അതായതു് ക്രാ ഠ ൪-മുതൽ പലിശനിരക്കു കുറച്ചുകൊടുക്കുകതന്നെ വേണം. ഇനിമേലുള്ള ഏതാനും കാലത്തേക്കു പലിശയുടെ നിരക്കു കുറക്കുന്നതുകൊണ്ടു മാത്രം മതിയാകുന്നതല്ല.

ബാങ്കുകാർ അവരുടെ ലാഭംകണക്കിലെഴുതി ഷെയർഹോൾഡേഴ്സിനു വീതിച്ചുകൊടുത്തുപോയതുകൊണ്ടു കഴിഞ്ഞ കാലങ്ങളിലെ പലിശയെ സംബന്ധിച്ച ഒരു നിയമം നടപ്പിൽ വരുത്തുവാൻ പാടില്ലെന്ന് ഒരു തർക്കം പുറപ്പെടുവിച്ചേക്കാം. ബാങ്കുകൾ നടക്കുന്നതെല്ലാം കർഷകരെക്കൊണ്ടാണ്. കർഷകനില്ലെങ്കിൽ ബാങ്കു നടക്കുകയില്ല. അതുകൊണ്ടു ബാങ്കുകളുടെ ശരിയായ പ്രവർത്തനത്തിനു വേണ്ടിയും കർഷകക്കു വേണ്ട സഹായം ചെയ്യണം. ഓഹരിക്കാർക്കു മുൻകാലങ്ങളിൽ പന്ത്രണ്ടും പതിനഞ്ചും പതിനെട്ടും ശതമാനം വാതം ലാഭം വീതിച്ചുകൊടുത്തിട്ടുണ്ട്. മേലാൽ അഞ്ചും ആറും ശതമാനം വീതം വീതിച്ചുകൊടുത്താൽ മതിയെന്നു വയ്ക്കണം. ഒരുകാലത്തു ധാരാളം ലാഭവീതം കിട്ടിയിട്ടുള്ളതുകൊണ്ട് ഇപ്പോൾ കുറെ കുറഞ്ഞുപോയാലും അതുകൊണ്ടു തൃപ്തിയുണ്ടാകാതിരിക്കയില്ല. കൃഷിക്കാരുടെയും രാജ്യത്തിന്റെയും ബാങ്കുകളുടെയും ക്ഷേമത്തിനും ഉത്തമർണ്ണന്മാരുടെ നിലനിൽപ്പിനും വേണ്ടി പലിശ നഷ്ടം കുറെയാകം ഉത്തമർണ്ണർ സഹിക്കണമെന്ന് ഈ നി

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[Mr. N. E. Varughese.]

യമം നിർദ്ദേശിക്കുന്നതു് ഒരിക്കലും അന്യായം ആയിരിക്കുകയില്ലെന്നാണ് എനിക്കു പറയുവാനുള്ളതു്. തിരുവിതാംകൂറിലെ ആകമാനം ജനങ്ങളുടെ സംരക്ഷണത്തിലേയും അഭിവൃദ്ധിയേയും നോക്കുന്നപക്ഷം ഒരു ന്യൂനപക്ഷമായ ഉത്തമർണ്ണന്മാർ ഈ വിധത്തിൽ സമാധാനപ്പെടേണ്ടതു് അത്യാവശ്യമാകുന്നു. രാജ്യത്തിന്റെ നട്ടെല്ലായ കർഷകരെ സഹായിക്കുക എന്നതുതന്നെ അത്യന്താപേക്ഷിതമായ സംഗതി. അതിനാൽ എന്റെ ഈ ഭേദഗതിയെ എതിർക്കാൻ ആർക്കും ശക്തികാണുകയില്ല എന്നുഞാൻ വിശ്വസിക്കുന്നു.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): ഈ അമൻറുമെൻറിൽ "in existence on such date" എന്നു പറഞ്ഞിരിക്കുന്നു. അതുകൊണ്ടു ഫ്രം 0 ൽ ഉള്ള കടങ്ങളെ സംബന്ധിച്ചുള്ള പലിശമാത്രം കുറച്ചാൽമതിയോ അതോ ഫ്രം 0 മുതൽ ഈ റഗുലേഷൻ നടപ്പിൽ വരുന്നതിയതി വരെയുള്ള കടങ്ങളുടേയും പലിശകുറക്കണോ, അതല്ല ഫ്രം 0 മുതൽ-വരെയുള്ള കടങ്ങളുടെ പലിശകുറക്കണോ?

MR. N. E. VARUGHESE (*Tiruvalla I*) ചോദ്യം മനസ്സിലായില്ല.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): മെമ്പർമാരാക്കിയിരിക്കുന്ന ഭേദഗതികൊണ്ടു് വരുന്നതു് ഫ്രം 0 ൽ ഉണ്ടായിരുന്ന കടങ്ങളെ സംബന്ധിച്ചു് ഇങ്ങനെയുള്ള വ്യവസ്ഥകളെല്ലാം ഉണ്ടായിരിക്കണമെന്നാണ്.

MR. N. E VARUGHESE (*Tiruvalla I*): ഞാൻ ഉദ്ദേശിച്ചിട്ടുള്ളതു് ഫ്രം 0 ൽ ഉള്ളകടങ്ങളും ഇനിയും നടപ്പാകുന്നതുവരെയുള്ള കടങ്ങളും ഉൾപ്പെടണം എന്നാണ്.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): ഫ്രം ഫ്രം-നു ശേഷം കടംവാങ്ങിച്ചിരുന്നാൽ അതിനു പലിശകുറച്ചുകൊടുക്കണോ?

MR. N. E. VARUGHESE (*Tiruvalla I*): അതു ഞാൻ ഉദ്ദേശിച്ചിട്ടില്ല.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): ഫ്രം 0 മുതൽ ഈ റഗുലേഷൻ നടപ്പിൽവരുന്നതിയതിവരെയുള്ളകടങ്ങളെ സംബന്ധിച്ചിടത്തോളം പലിശകുറക്കണമെന്നാണോ ഉദ്ദേശം?

MR. N. E. VARUGHESE (*Tiruvalla I*): അതെ.

MR. K. M. KURIAKOSE (*Muvattupuzha II*): Sir, I second the amendment. In doing so, I wish to say a few words. (*Louder, please*).

We have now reached the most important point in this Bill. When the Bill was introduced, several members referred emphatically to this question of retrospective effect (*louder, please*). Sir, I am sorry I have a very bad throat and cannot raise my voice any further.

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Sir, it is admitted on all hands that the depression began from 1105 and continued to increase. It has almost come to stay. During the first reading of the Bill, I raised the point that whether the question of reduction of interest from 1105 onwards comes within the scope of the present Bill. The Law Member assured us that the Select Committee will be invested with very wide powers, even to overhaul the whole Bill. The deliberations of the Committee have not produced the desired result. It has been stated that, without taking into consideration this aspect of the matter, there is no use passing a Bill which will give any relief to the indebtedness of agriculturists.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): If the member is not going to speak up, he should not complain that the House has not understood him properly.

DEPUTY PRESIDENT: The Chair did tell him to speak up. But, if it is a natural limitation, what can the Chair do?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Let not the member say that the House has not heard him properly, and thereby find fault with us.

MR. K. M. KURIAKOSE (*Muvattupuzha II*): I shall not blame the House if my arguments are not heard; but I shall not be responsible if they are not understood properly.

It is admitted on all hands, and the Debt Redemption Committee Report amply testifies to it, that there sholud be reduction of interest from 1105 onwards. Ample reasons are given in the Report of the Committee itself. Therefore I need not give further reasons to convince the House that there is real necessity for reduction of interest from 1105. Where is the necessity for and what is the meaning of giving relief without some existing evil? Are we to anticipate an evil, or, are we here to suggest a remedy for the existing evil? Without taking into consideration the past debts and giving reduction of interest as a relief measure, I cannot understand what relief we are going to give to the suffering agriculturists.

With regard to the rate of interest suggested in the amendment, as there are amendments coming below, I do not propose to speak on it now. There are amendments to reduce the interest even to 3 per cent. The main consideration ought to be whether agricultural investments would lead us to fix the interest which will give more than 6 per cent. I do not think any member of the House will say that investments on agricultural schemes will bring in a profit of more than 6 per cent. The Co-operative Enquiry Committee and the Agricultural Debt Redemption Committee have enquired into the margin of profit that an agriculturist would be getting out of his investments on agriculture. In the majority of cases, it was said that the agriculturists are working at a loss. His returns are often far below the margin of profit.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Is the member suggesting another amendment to the amendment?

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MR. K. M. KURIAKOSE (*Muvattupuzha II*): I object to that part of the amendment which speaks about reduction of interest to 6 per cent.

DEPUTY PRESIDENT: Is not the member seconding Mr. Varughese's amendment?

MR. K. M. KURIAKOSE (*Muvattupuzha II*): There are two definite points in the amendment.

DEPUTY PRESIDENT: You are not seconding the whole amendment?

MR. K. M. KURIAKOSE (*Muvattupuzha II*): I anticipate some amendments coming below with respect to the question of interest.

DEPUTY PRESIDENT: To support with certain modification is no support. Is there anybody seconding Mr. Varughese's amendment as it stands?

MR. T. K. ALEXANDER (*Kunnatnad I*): I second it.

DEPUTY PRESIDENT: I think the request made by Mr. S. J. Nair may be considered. There are two other motions covering a portion of Mr. Varughese's amendment. They are Nos. 251 and 252. I think these amendments may be moved, and all the three amendments considered together.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): My amendments which are substantially identical with Mr. Varughese's amendment may also be moved in this connection. I consider my amendment is less objectionable because of the clear wording of it. I may be allowed to move it. I have three amendments, and all of them together will make the position clear. The amendments concerned are 248, 251 and 257. With those amendments, the Clause will read thus:

> "Notwithstanding anything in any law, contract, decree or order of Court, no interest shall accrue, or be permitted to be recovered as accruing, from and after the 1st Chingom 1105 up to the termination of three years from the date of the commencement of this Regulation, in respect of any debt (not due in paddy or grain) at any rate exceeding 6 per cent per annum"

DEPUTY PRESIDENT: Are you proposing to move all the three amendments?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Yes, Sir.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): If all the amendments are moved altogether, will there not be difficulty in voting?

DEPUTY PRESIDENT: It is, therefore, that I am asking whether all the three are to be clubbed together. Will the Law Member please say what the practice is?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There is one particular advantage to be gained if Mr. Kunjukrishna Pillai's request is granted. His point is that, if all these three amendments are dealt with together, the sense will be more or less as that of the amendment proposed by Mr. Varughese. Mr. Varughese seems to have admitted in some measure that the language of his amendment may be made more precise. In that case, Mr. Kunjukrishna Pillai's amendment may be considered, if Mr. Varughese is agreeable to that.

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MR. N. E. VARUGHESE (*Tiruvalla I*): Yes, Sir.

DEPUTY PRESIDENT: Then, there is formally one amendment before the House.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I submit one word, Sir? I may also bring to the notice of the House amendment No. 252 which is also substantially identical with the amendment that is now under discussion as well as the one tabled by Mr. Kunjukrishna Pillai.

DEPUTY PRESIDENT: For the reason that his amendment is also substantially identical, I do not allow Mr. Pacode Narayana Pillai to move it.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): To proceed from where I left, the only difference I point out between Mr. Varughese's and mine is this.

MR PACODE A. NARAYANA PILLAI (*Vilavankod*): On a point of order. I refer to Rule 22, which says.

> "Where substantially identical motions stand in the names of two or more members, the President shall decide whose motion shall be moved, and the other motions shall thereupon be deemed to be withdrawn".

DEPUTY PRESIDENT: Order, order. That is abundant authority for me.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): That is exactly the reason why I say that, before one particular member is called upon to move, all the identical motions must be considered and a ruling given.

DEPUTY PRESIDENT: Is the member questioning the ruling of the Chair?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): I am only pointing out that there is yet one more identical amendment to be considered.

DEPUTY PRESIDENT: That is to say, you place certain matters which will induce the Chair to review the decision once made. It is open to the Chair to do so. But, there is one difficulty. The rule, cited by Mr. Pacode Narayana Pillai himself, confirms me in the opinion that what I did was absolutely right. It is not a question of being substantially right but I repeat the word 'absolutely' right.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Sir, I only wanted to be heard.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, my point is this.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): On a point of order, Sir.

DEPUTY PRESIDENT: No.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): According to the amendment as it stands, it may appear as though only the debts subsisting on 1105 will come within the scope of this provision. That is not exactly what is intended. I shall consolidate all my amendments, and then the clause will read thus:—

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[Mr. K. Kunjukrishna Pillai.]

"Notwithstanding anything in any law, contract, decree or order of court, no interest shall accrue, or be permitted to be recovered as accruing, from and after the 1st Chingom 1105 up to the termination of three years from the date of the commencement of this Regulation, in respect of any debt (not due in paddy or grain) at any rate exceeding 6 per cent. per annum".

The two vital principles which this amendment seeks to provide for are these. Debts subsisting during depression period must also be provided for and brought within the scope of the ameliorative measures of this Regulation. Reasons for that aspect of the matter have been stated by the framers of the Agricultural Debt Redemption Committee Report.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does not the amendment seek to cover debts coming into existence after the commencement of this Regulation?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Only the period that will be governed by the other provisions that we have passed This includes only the provision for interest accruing from and after the promulgation of this Regulation, 1105 to the termination of the period of three years One amendment is the words 'in existence on such dats' be omitted. Let it not be understood that debts existing in 1105 alone are taken account of.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): "in existence on the date of the commencement of the Regulation."

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I am prepared to accept that amendment to make it clear.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Is there any amendment to delete "in existence on such date... ... "?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Yes; amendment No. 257.

Therefore, the principle to be considered is whether the interest for the depression period should be limited to six per cent or not. On that there is definite and clear authority given by the authors of the Debt Redemption Committee stating that no provision or scheme for the relief for agricultural indebtedness will be effective or substantial, unless the period of depression is taken into account and substantial reduction made in the interest that has accrued during that period. The whole reason for such an extraordinary measure like this arises out of the fact that, from and after 1105, due to causes beyond the control of the agriculturists, the commodity prices fell considerably and the value of money appreciated apace. Commodity prices fell to an extent which put the agriculturists to such a position that it was impossible for them to meet the claims and pay up the interest. The Committee has pointed out that the agriculturist in Travancore normally is not a dishonest person. It has been found by the Banking Enquiry Committee and this Committee from its evidence supports the view that the agriculturist in Travancore is a person who has got sufficient self-respect and who is anxious to meet the demands made on him

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in ordinary times. It must be deemed that it is due to sheer inability that he has not been paying the money and the interest during the period of depression. Even for men with the best of intentions and honest motives, it will not be possible to meet the demand if they are unable to do it. The whole point that is advanced as a result of the enquiry of this Committee and similar committees throughout India has been that, for a specific period from and after 1105 that is, approximately from 1929,—

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I submit that this amendment is not in order, because, we have given full discretion to the Debt Conciliation Boards to decide as to what the rate of interest a decree-holder, an ordinary creditor, should be given. A decree debt also may be included in the application that may be filed before a Debt Conciliation Board.

DEPUTY PRESIDENT: Will you please read that portion of the clause by which the court is given absolute discretion?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): "The manner of the conciliation shall be in the discretion of the Board....."

That is provided in Clause 16 (1). So, we have already given absolute discretion to the Board to decide what the rate of interest should be.

DEPUTY PRESIDENT: There is no absolute discretion given.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I rise to another point of order. The amendment having been admitted by the Chair, and the discussion having proceeded so far, can that question be reopened?

DEPUTY PRESIDENT: If there is no substance in the point of order revised by Mr. Velayudhan Pillai, at any stage, I can intervene and stop him.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I may be permitted to explain. Suppose a decree-debt is included in the application—

DEPUTY PRESIDENT: You must confine yourself to the point of order.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): The point of order is that this amendment is not in order.

DEPUTY PRESIDENT: The Board was not given an absolute discretion in fixing the interest. That is why I have asked you to read the particular wording.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): "The manner of the conciliation shall be in the discretion of the Board....."

DEPUTY PRESIDENT: It is the *manner*, of conciliation and not details like rate of interest. There is a difference between the manner of conciliation, and the details in connection with the conciliation. I think the present amendment is in order.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, regarding relief to the debtor by reduction of the rate of interest, the Committee states thus:—

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> "We have received overwhelming evidence that, if real relief is to be brought to the agriculturist, substantial reduction should be made in the rates of interest applicable to the period of depression."

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Sir, I wish to rise to a point of order. The House has held, in Clause 19 of the Bill, that it is competent for the court in certain cases to disallow in whole or in part the cost of the suit and reduce past interest.

> ".....Such court having regard to the certificate and the conduct of the parties in connection therewith may, in its discretion disallow in whole or or in part the costs of the suit or of the application, as the case may be and may also, in its discretion, reduce the amount of the interest remaining due for the period from and after 1st Chingom 1105 up to the date of the decree or order on the application, as the case may be, by reducing the rate of the interest to any rate which is not less than either one-half of the stipulated rate or four per cent. per annum, whichever is higher".

We have given a wide discretion to the court in certain cases. According to the amendment now moved by Mr. Kunjukrishna Pillai, we will be re-opening that question. We have practically decided the matter in considering Clause 19. Therefore I submit that this amendment is not in order.

DEPUTY PRESIDENT: I wish to hear the mover of the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I think that Mr. Kunjukrishna Pillai is quite in order. Clause 19 relates to the consequences arising out of a certificate issued by a Conciliation Board. If, after the certificate, a suit is filed by a party, the court may in its discretion disallow in whole or in part the costs of the suit or reduce interest. This amendment wants to lay down, irrespective of the certificate of the Conciliation Board and the discretion of the court, that no person shall be entitled to recover interest over 6 per cent. This goes on an entirely different principle. The other arises in consequence of a certificate. This arises out of quite different circumstances.

DEPUTY PRESIDENT: So, according to the Law Member, the circumstances under which the two sections operate are different?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes; they are entirely different.

MR. P. C. KURIYAN (*Kottayam I*): May I know from the Law Member –

DEPUTY PRESIDENT: He is not in possession of the House,

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): That is the evidence which the Committee has received and they state in the next para hus:—

> "After giving the subject our most anxious and careful consideration, the Committee found that they were left with no alternative but to take the view that no proposal for the relief of agricultural debt would be adequate to meet the present situation if it did not include a reduction of the rate of interest yet remaining unpaid on past transactions, during the period of the depression".

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So that with regard to the position taken that relief is necessary and imperative and if something substantial is to be done to put the agriculturist on his feet to allow him to continue his work which is admitted on all hands to be of paramount interest not only to the State but even for the existence and improvement of other industries as well, I think that a measure which does not deal with the period of depression from 1105 down to the period when this Regulation comes into force will not at all be adequate. For that period, some substantial relief must be given. It might be argued that it affects vested interest, that it re-opens contractual obligations and that it is an inroad on expectations that have been guaranteed by the State.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): If interest had already been paid, is it the member's idea that a refund may be claimed?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): No; only existing debts and interest that are accruing. Relief must be given in regard to this interest amount; and unless substantial relief is given to this interest amount, it will not be an adequate relief to the agriculturist.

Then the question arises regarding the objections to going back to the period from 1105 onwards. The first objection is that it makes an inroad on expectation and that it affects vested rights. Sir, I may submit that one can sometimes make too much of this and build up an argument which may negative the whole of these provisions. During normal times, these arguments may be very valid and all reasonable people will adhere to them and give them their due weight. But it must be admitted on the face of it that these are extreme times and extraordinary difficulties have come into existence and for that extraordinary measures are necessary. If that is granted, the question is how far we should go, and whether we are justified in making so much of an inroad into vested rights. That is a matter of opinion and the Committee, after considering all aspects of the question and weighing the available evidence, have given their opinion. That expert body came to the conclusion that it is absolutely necessary to give substantial relief for the period of depression during which time interest accumulated and debts were not paid because of unforeseen circumstances and because of the sheer inability of the agriculturist to make any payment. Sir, I do not want to dwell upon that point any more.

The next question is only with regard to the rate of interest. I suggest it should be 6 per cent. I know that I am putting forward a very high rate of interest, considering the margin of profit of the agriculturists. Everybody will admit that the agriculturist, even in normal times, is not able to realise more than 4 per cent. on his outlay. How can we expect him to pay 12 per cent? Left to myself, I would say that the rate of interest must be considerably lower. Otherwise the agriculturists will ever remain debt-ridden. You will be keeping alive the condition that makes the agriculturists indebted. I have

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[Mr. K. Kunjukrishna Pillai.]

got very great sympathy with the amendment of Mr. Changanachery Paramesvaran Pillai which is logical and which is required by the existing circumstances. But I put it at 6 per cent. So that I may err, if at all, on the side of moderation, because you are touching vested rights in principle. I do not want to shock the creditor by reducing the rate too much over which he has a vested right. But the debtor must be given relief, substantial relief if possible. As a compromise that will be acceptable to all reasonable creditors and to all reasonable vested interests, I put the rate at 6 per cent. and I am sure that nobody will say that this is a low rate that has been fixed. With these words, I commend the amendment for the acceptance of the House.

MR. S. NILAKANTA PILLAI (*Chirayinkil II*): Sir, I second the motion. With regard to debts incurred since 1105, it is said that concession need not be given. So those who have entered into agreements after 1105 are not to be given any concession by way of reducing the interest or scaling down the principal. But my submission is that those people who have incurred debts during depression period deserve more concession than the people who have incurred debts before 1105; because, when the depression set in, the creditors or the money-lending people were on the alert and they refused to lend money unless those who were in need of money complied with certain demands made by the creditors. So people who were in urgent need of money had to accept the terms of the money-lenders. They had to accept whatever terms were dictated by the money-lenders. So my submission is that more concessions should be given to those people who have incurred debts during the depression period. Therefore a reduction of interest to 6 per cent. on debts incurred since 1105 is quite necessary. There is another aspect of the matter also. By reducing the rate of interest from 1105, a retrospective effect is given. In this respect, my humble submission is that the extraordinary circumstances prevailing in the country demand such retrospective measure to be enacted. There is not the slightest reason for the people to condemn it. The situation demands such a step on the part of the Legislature. So, I support the amendment moved by Mr. Kunjukrishna Pillai.

(Mr. Changanachery Paramesvaran Pillai stood up)

DEPUTY PRESIDENT: Mr. Varughese, do you accept Mr. Kunjukrishna Pillai's amendment?

MR. N. E. VARUGHESE (*Tiruvalla I*): I accept it.

DEPUTY PRESIDENT: The next two amendments, which are similar, are by Mr. S. J. Nair and by Mr. Changanachery Paramesvaran Pillai. Mr. S. J. Nair's is No. 261, and Mr. Paramesvaran Pillai's No. 262. If Mr. Nair has no objection, Mr. Paramesvaran Pillai may move his amendment first.

MR. S. J. NAIR (*Nedumangad*): I have no objection.

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MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : Sir, I shall speak with reference to both my amendments, but I seek the permission of the Chair to move also another amendment to the section along with it.

My first amendment, No. 261, is:—

> *"In Clause 34, substitute the words "from the 1st of Chingom 1105" for the words "for a period of three years from the commencement of this Regulation" in lines 2 and 3."*

The permission I pray for is to propose another amendment *viz.*, to omit the words "in existence on such date" in line 4 of the clause.

DEPUTY PRESIDENT : Your amendment No. 262, is—

> "In clause 34, line 5, substitute the words "four per cent" for the words "six per cent".

That, you want to change ?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : No. I do not want any change in that amendment. The rate of interest should be reduced to four per cent. and then this should have retrospective effect in respect of debts from the 1st Chingom 1105 and should apply also to debts to be incurred after the date of commencement of this Regulation.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Does the member's amendment apply to debts coming into existence after the commencement of the Regulation?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : Yes. All debts.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Even if they be incurred, say, in 1112 ?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : Yes.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : And that for ever ?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : Only for three years.

MR. K. R. ELENKATH (*Kalkulam I*) : How does the amended clause read ?

DEPUTY PRESIDENT : I am very sory to interrupt the member. I made pointed mention of amendments Nos. 261 and 262. When Mr. S. J. Nair drew my attention to the similarity of the two amendments, I said amendments Nos. 261 and 262 may also be considered along with Mr. Varughese's amendment which has now merged into Mr. Kunjukrishna Pillai's. Amendment No. 254, which the honourable member now wants to move, is somewhat different.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : Do all these amendments go together ?

DEPUTY PRESIDENT : Yes. I was only making it clear that I had in contemplation only amendment Nos. 261 and 262 when I asked Mr. Changanachery Paramesvaran Pillai to move his amendment.

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MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): If the Chair thinks that amendment No. 254 is different from No. 261, it may be moved separately.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): If the present amendment is carried, Mr. Changanachery Paramesvaran Pillai may not be able to move his first amendment.

DEPUTY PRESIDENT: My point is this. There must be some finality; and it was repeatedly stated by me that amendments Nos. 261 and 262, being similar, may be considered together. That is the reason why Mr. S. J. Nair was particularly asked whether he would move or allow Mr. Changanachery Paramesvaran Pillai to move. I think now Mr. Varughese's amendment, which has become Mr. Kunjukrishna Pillai's amendment, and amendment Nos. 261 and 262 may be considered together.

MR. A. THANU PILLAI (*Trivandrum-Rural*): I want to make one suggestion. Either Mr. Changanachery Paramesvaran Pillai may be allowed to move all his amendments, or Mr. Kunjukrishna Pillai's amendment may be disposed of now. That amendment, by Mr. Changanachery Paramesvaran Pillai, which relates to a particular portion of the clause may be moved along with Mr. Kunjukrishna Pillai's amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): What will happen if Mr. Kunjukrishna Pillai's amendment is accepted by the House?

MR. A. THANU PILLAI (*Trivandrum-Rural*): Then, all these amendments should be allowed to be moved together; there is no meaning in allowing amendments bit by bit.

DEPUTY PRESIDENT: From Mr. Thanu Pillai's observation, it would appear that allowing amendments bit by bit is quite wrong.

MR. A. THANU PILLAI (*Trivandrum-Rural*): I did not mean any reflection.

DEPUTY PRESIDENT: I am in possession of the House. If Mr. Thanu Pillai had only placed the matter before the House sufficiently early, the position would have been different. There was a request made to me by Mr. S. J. Nair that he should be allowed to move his amendment along with that of Mr. Varughese. And the only other thing placed before me was the fact that Mr. Changanachery Paramesvaran Pillai had an amendment, No. 262. Mr. Thanu Pillai, and others like him, could have then drawn my attention to other similar amendments, if any. To say that there is no meaning in allowing amendments bit by bit, though not a reflection on the Chair, is not very fair. If Mr. Changanachery Paramesvaran Pillai's amendment can be appropriately considered along with this, I certainly shall not raise any objection. But, to say there is "no meaning" in allowing amendments to be moved bit by bit, is certainly very strong expression. The Law Member is also of the opinion that Mr. Changanachery Paramesvaran Pillai's amendment may also be considered along with this. The House will bear in mind that I confine my attention to facts placed before me.

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MR. A. THANU PILLAI (*Trivandrum—Rural*) : Sir, I certainly did not mean any reflection whatsoever on anything that has taken place, much less on any observation from the Chair. My only intention was to make a suggestion.

DEPUTY PRESIDENT : I was only sorry that Mr. Thanu Pillai did not place his request in time.

As it is, Mr. Changanachery Paramesvaran Pillai may move both the Amendments, No. 254 and No. 262.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : Sir, I beg to move Amendment No. 254 and No. 262 with the changes I mentioned a little while ago.

In Clause 34, substitute the words "from the 1st of Chingom 1105" for the words "for a period of three years from the commencement of this Regulation" in lines 2 and 3.

In Clause 34, line 5, substitute the words 'four per cent." for the words "six per cent," in line 5.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : The member wants to substitute the words "1st Chingom 1105" for the words "for a period of three years from the commencement of the Regulation". Does the member want the provision to be in force for all time to come ?

DEPUTY PRESIDENT : That question is premature. Let the mover first place his amendment before the House ; and then questions may be asked.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : Sir, the effect of these amendments will be to give retrospective effect to the provision for reducing the rate of interest, from 1st Chingom 1105, and also to reduce the rate of interest, on debts, accruing from that date, to 4 per cent. Sir, the title of the Regulation says that this shall be the Agriculturists' *Relief* Regulation. This Bill is designed therefore to give the agriculturists substantial relief. But, as a matter of fact, there are very few provisions in it which give any real relief to the agriculturist.

There are two directions in which relief is sought to be given to the agriculturist. Firstly, interest is sought to be reduced ; and secondly, payment in instalments spread over a fairly long period is allowed. The real and the more important of these two forms of relief is the reduction of interest. Sir, the Committee that sat over this question unanimously recommended reduction of interest to 4 per cent. or to one-half of the contract rate of interest, whichever is higher, though I should have said whichever was lower. The Committee also suggested that such reduction in the rate of interest should take effect from the 1st of Chingom 1105 and not merely from the date of the commencement of this Regulation. Sir, unless this recommendation of the Committee is embodied in this enactment, I may say that it does not deserve the 'Short Title' that it now has. (*Hear, hear.*)

Sir, various objections may, I know, be taken to this suggestion of mine. First of all, it will be argued that no legislation should be

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[Mr Changanachery K. Paramesvaran Pillai.]

retrospective in its operation. Sir, there is nothing inherently wrong in giving retrospective effect to a legislative enactment. The only point to be considered, when giving retrospective effect to a piece of legislation, is whether the circumstances justify it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): But, should not adequate compensation be given to the party whose rights are so cut down?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): No question of compensation arises in the view I take, as you will presently see. As regards the reduction in the rate of interest, it is argued that it is opposed to the sanctity of contracts; and that contractual obligation should be respected. Sir, I have spent almost my whole life in this profession of law, and I know that there is such a thing in law as a contract becoming impossible of performance; and when it becomes impossible of performance, the sanctity of contracts cannot be respected.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): If that be the law on the subject, why not we leave the parties to seek redress through a Court? Why should we make a special provision for that?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): I anticipated that question. But, that would mean that, in every case, impossibility of performance of the contract will have to be proved before the Court. Now, this is a general condition affecting the whole State and not any particular party. Hence legislation is the proper course to meet such a situation.

MR. K. C. ABRAHAM (*Kottayam II*): In this case, may I point out that immpossibility of performance of a contract arises only when the debtor is unable to pay?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): Sir, I do not consider that to be a serious question; I do not therefore propose to answer it.

Let us take a concrete case. Suppose a contract is entered into by an English gunpowder manufacturing company with the Abyssinian Emperor for the supply of gunpowder for the Abyssinian War, but the company's factory is destroyed on account of an earthquake in England, would the Abyssinian Emperor be entitled to recover damages from the company for non-supply of the powder.

DEPUTY PRESIDENT: A foreign Sovereign cannot be sued.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): Let us imagine for the moment that he is a private party. Therefore, Sir, if circumstances change and if performance of the contract becomes impossible owing to circumstances beyond the control of the parties, the performance of the contract will not be enforced.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Should all the parties be absolved of their obligations?

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MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : I shall come to that.

The question then, in the case of this Bill, is whether circumstances have so changed as to justify us in holding that, in this country, it has become impossible for the debtor to perform agriculture for interest at a rate higher than 4 per cent. from Chingom 1105 due to causes beyond the control of the debtor. Sir, it is well known that there has been serious economic depression and phenomenal fall in the prices of agricultural products since 1105. But, so far as Travancore is concerned, these are not the only factors which have contributed to the catastrophic fall in prices of agricultural produce.

MR. K. R. ELENKATH (*Kalkulam I*) : If we accept the present amendment, will we not be unjust to those debtors who, out of respect for the law, have already paid interest at the contract rate ?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : I shall deal with that point later on.

Sir, the economic depression can account only for 33 per cent. of the fall in prices. But, in Travancore, the percentage of fall in prices has been much higher, say, even 80 per cent. in the case of all commodities. Our chief money crops are cocoanut and cocoanut products, pepper, ginger and rubber. I do not propose to take into consideration paddy and tea.

Now, Sir, in regard to cocoanuts and cocoanut products, the fall in the prices has been from 70 to 75 per cent. This is due to foreign competition. It is a well-known fact and I need not dilate upon it. Owing to the fraud committed by some European Companies, the price of pepper has gone down by 90 per cent. In the case of rubber, it is a well-known fact that from 1105 to 1101, *i. e.*, for a period of over three years, the price was only nominal and it was considered not profitable for the owners of rubber estates to tap the trees. Therefore, we find that the prices of agricultural produce have declined in Travancore to the extent of about 70 to 80 per cent., partly on account of the economic depression and partly on account of other causes. If the prices have declined to this extent, I ask how are these agriculturists to pay interest at a high rate ? Whether they are able to pay interest even at the rate of 4 per cent., is itself doubtful. But at any rate to ask them to pay a higher rate of interest than 4 per cent. is, I think, very inequitable. What is interest after all ? Interest is merely the share of the capitalist in the profits of the business in which it is invested. If the business, agriculture in this case, does not produce any profit, the capitalist does not earn any profit ; and he is entitled to no interest, He therefore loses nothing by my amendment. The position, therefore, is that, as agriculture has yielded no profit during the period under consideration or has yielded only a very small profit if at all, it has become impossible for the agriculturist to meet his contractual obligations fully and therefore he is entitled to be partially at least relieved from them. Since the economic depression began, other causes also supervened to reduce the prices of commodities.

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DEPUTY PRESIDENT: Is it likely that you will take some more time?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): I should like to take a few minutes more.

DEPUTY PRESIDENT: Mr. Changanachery Parameswaran Pillai will continue his speech when the House meets again.

RAO BAHADUR DR. N. KUNJAN PILLAI (*Chief Secretary to Government*): Sir, before you adjourn the House, I may be permitted to make another statement. The House knows that Mr. Raman Pillai's Compensation for Improvements Bill is awaiting the third reading in this House. He has sent a requisition to Government asking for permission to include the third reading of his Bill in the agenda of this session of the House. Government considered the question; and at first they could not make up their mind because they did not know what progress would be made with the Agriculturists' Relief Bill. But now I think there is some hope of the second reading of the Agriculturists' Relief Bill being got through on Thursday. So, Government have decided to allow Mr. Raman Pillai's Bill to be taken up for third reading on Thursday, if there is any time left over, after the second reading of the Agriculturists' Relief Bill is passed.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Is not the third reading of this Bill to be taken up?

DEPUTY PRESIDENT: That arises only after the second reading is finished. I think the member is not in order in putting the question; because, the third reading of this Bill will depend upon whether the second reading is finished or not. It is now premature.

The House will now adjourn, and meet again on Thursday at 11 A. M.

The House adjourned at 5. 5 P. M.

K. MADHAVA KURUP,
Secretary to the Sri Mulam Assembly.

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